

**Amendment#1 to Loyal Advantage Agreement
ITEM#18-0877**

This Amendment to Loyal Advantage Agreement ("**Amendment**") is entered into as of the date of the last party's signature below by and between **City of Santa Fe ("Customer")** and **CenturyLink Sales Solutions**, as contracting agent on behalf of the applicable CenturyLink Affiliate providing the Services under the Agreement ("**CenturyLink**").

WHEREAS, Customer and CenturyLink Sales Solutions, Inc. ("**CenturyLink**") have entered into a certain Loyal Advantage Agreement with an effective date of August 1, 2018 (together with Service Order No. 817608, the "**Agreement**");

WHEREAS, this Amendment is adding Service Schedule: Colocation Services (with Colocation Services SLA) which was inadvertently omitted from the initial Agreement

WHEREAS, Customer and CenturyLink desire to amend the Agreement as set forth below.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Addition of Service Attachments.** Section 2 of the CenturyLink TS Service Exhibit of the Agreement is revised to add the following Service Attachment to the Agreement:
 - **CENTURYLINK TS SERVICE SCHEDULE: COLOCATION SERVICES (WITH COLOCATION SERVICES SLA)**
2. The CenturyLink TS Service Schedule: Colocation Services (with Colocation Services SLA) (the "**Colocation Service Schedule**") attached hereto and incorporated herein as **Exhibit A** provides the general terms and conditions applicable to Customer's purchase of Colocation Services (as defined in the Colocation Service Schedule) from CenturyLink.
3. Notwithstanding any provision in the Agreement to the contrary, in the event any term in the Colocation Service Schedule or Colocation Services SLA conflicts with any term of the Loyal Advantage Agreement or any other document that is a part of the Agreement, such conflicting term in the Colocation Service Schedule or Colocation Services SLA, as the case may be, shall be deemed to take precedence over any conflicting term in the Loyal Advantage Agreement or such other document.
4. Except as amended by this Amendment, the terms of the Agreement remain in full force and effect and such terms and conditions shall govern this Amendment. In the event of any inconsistency between the terms of this Amendment and the Agreement, the terms of this Amendment shall govern.
5. Capitalized terms used, but not defined herein, shall have the meaning ascribed thereto in the Agreement.
6. This Amendment may be executed in multiple counterparts (including by facsimile and other electronic means), each of which will be deemed an original, but all of which taken together will constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, CenturyLink and Customer have caused this Amendment to be executed by their duly authorized representatives.

CENTURYLINK SALES SOLUTIONS, INC.

CITY OF SANTA FE

By: Dan Sullivan
Name: Dan Sullivan on behalf of Susan Baker
Title: Lead SLED Relationship Manager
Date: 11/8/2018

By: [Signature]
Name: Erik Litzenberg
Title: City Manager
Date: 12/6/12

ATTEST:

By: [Signature]
Yolanda Y. Vigil, City Clerk

APPROVED AS TO FORM:

By: [Signature] 10/30
Erin K. McSherry, City Attorney

APPROVED:

By: [Signature]
Mary McCoy, Finance Director AM
62253.510310

EXHIBIT A

CENTURYLINK TS COLOCATION SERVICE SCHEDULE

Services/Rates. This Service Schedule ("**Service Schedule**") sets forth the terms generally applicable across all of the services provided hereunder ("**Services**"), as well as terms applicable only to specific Services as noted herein. Customer will pay all applicable rates and fees set forth in the relevant Service Order and/or Statement of Work ("**SOW**").

SERVICE TYPE #1: COLOCATION SERVICES

The services covered by this Colocation Service Schedule are space, power, Gold Support/remote hands, structured cabling, and cross connects services provided by CenturyLink to Customer from time to time (collectively, "**Colocation Services**" or "**Services**"). Connectivity services (e.g. HAN Internet Bandwidth and HAN Internet Access) are not covered under this Schedule and require separate paperwork and a separate Service Order. Notwithstanding anything to the contrary, CenturyLink may increase the rates associated with existing Colocation Service at any time after twelve (12) months of the BCD for such Service in order to pass through increases in such Service's underlying power facility costs and annual escalators such increase shall be effective upon the date set forth in CenturyLink's written notice thereof to Customer.

Customer or Customer's employees, agents, contractors, or End Users who access any CenturyLink data center or other CenturyLink facility (a "**CenturyLink Premises**") on Customer's behalf ("**Authorized Representatives**") must be designated in writing. Customer, its Authorized Representatives and all Customer Equipment and any related materials used in connection with the Service shall comply with all data center operating policies (including the "Customer Guide and Handbook" ("**Customer Guide**")), a current copy of which is located on <https://www.cyxtera.com/technology/service-guides/> and which CenturyLink may change from time to time without notice. If CenturyLink reasonably believes that Customer is not complying with this Section, CenturyLink will notify Customer thereof and Customer shall remedy such non-compliance within five (5) days of receiving such notice. CenturyLink may immediately suspend the Services upon notice to Customer for Customer's material non-compliance with this Section if CenturyLink reasonably believes such material non-compliance to be an imminent threat of either (i) materially interfering with or harming the CenturyLink infrastructure; any third parties' infrastructure and/or the Services; and/or (ii) harm or damage to CenturyLink, Customer or third party personnel or

equipment. In all other cases, CenturyLink will notify Customer of non-compliance and Customer shall remedy such non-compliance within five (5) days of receiving such notice. If Customer fails to remedy such non-compliance within such period or begin implementation of a reasonable and mutually agreed plan to cure such non-compliance then, notwithstanding any other rights in the Agreement, CenturyLink may immediately (i) suspend the Service and/or restrict Customer's access to the CenturyLink Premises for so long as deemed reasonably necessary by CenturyLink or (ii) terminate the affected Service if such non-compliance is recurring.

Insurance. Without limiting the liabilities or indemnification obligations of Customer, Customer will, at its own cost and expense, maintain during the term of this Agreement, such insurance as required hereunder. The insurance coverage will be from a company, or companies, with either an A.M. Best's rating of A-VII or better or a Standard and Poor's rating of BBB or higher and authorized to do business in each state or country where data center is located. Customer may obtain all insurance limits through any combination of primary and excess or umbrella liability insurance. Customer's agents, contractors, or End Users who access any CenturyLink data center on Customer's behalf will be required to maintain proper insurance applicable to the type and scope of the services performed for Customer. It is expressly understood that Customer is ultimately responsible for its agents, contractors, or End Users, including without limitation, ensuring that the appropriate insurance is maintained.

(a) Workers' Compensation insurance or similar social insurance or government scheme in accordance with applicable laws in each state or country where the data center is located, including Employer's Liability insurance with limits not less than \$1,000,000 USD, or equivalent local currency, each accident.

(b) Commercial General/Public Liability with limits not less than \$2,000,000 USD, or equivalent local currency, per occurrence and \$4,000,000 USD, or equivalent local currency, aggregate covering personal injury, bodily injury, death, property damage, products/completed operations, and contractual liability.

(c) Commercial Automobile Liability with limits not less than \$1,000,000 USD, or equivalent local currency, combined single limit per occurrence covering bodily injury and property damage for all owned, non-owned

and hired vehicles used in connection with the performance of this Agreement.

(d) "All-Risk" property insurance on a replacement cost basis in an amount sufficient to cover the Customer's personal property located in the data center.

CenturyLink, its Affiliates, subsidiaries, and parent, as well as the officers, directors, employees and agents of all such entities will be included as additional insureds or an indemnity to principal on the policies described in subsections (b) and (c) above. The coverage described in subsection (b) will be primary and not contributory to insurance which may be maintained by CenturyLink, subject to the Indemnification provisions of this Agreement. Prior to commencement of Services under this Service Schedule or Service Exhibit, Customer will make available to CenturyLink evidence of the insurance required herein.

Subject to the rest of this Section, CenturyLink may enter the space within a CenturyLink Premises specifically identified as available to Customer for the placement and operation of the Customer Equipment ("**Customer Area**") and/or access Customer Equipment only to the extent necessary to provide a Service or otherwise exercise its rights under the Agreement. If Customer Equipment needs to be moved to another area within the same CenturyLink Premises or to another CenturyLink Premises due to either Customer's requirements for additional space or CenturyLink's reasonable business needs, the parties will cooperate to complete and minimize the impact of the relocation. CenturyLink may temporarily store Customer Equipment pending its installation at a CenturyLink Premises ("**Equipment Storage**"). If Equipment Storage continues for more than thirty (30) days, CenturyLink may return, at Customer's expense, the Customer Equipment. The risk of loss or damage for any Customer Equipment during any Equipment Storage shall be upon Customer. If any Authorized Representative or Customer Equipment presents any material risk of harm to CenturyLink, its employees, agents, contractors, or customers, or the CenturyLink Premises, Customer shall take prompt action to eliminate such risk. If Customer fails to do so or if there is risk of material and imminent harm, CenturyLink may, without prior notice or liability to Customer, take appropriate action itself, including accessing the Customer Area. Customer, its Authorized

Representatives and Customer Equipment will not cause personal injury or property damage at a CenturyLink Premise.

Customer will upon termination of a Service: (a) remove all Customer Equipment and any other Customer property ("**Customer Materials**") from the CenturyLink Premises; and (b) return the Customer Area to CenturyLink in the same condition as it was on the BCD, normal wear and tear excepted. If Customer fails to remove the Customer Materials within such period or if Customer has an outstanding balance at the end of the Service Term, CenturyLink may remove any Customer Materials (without liability) and either: (a) store it at Customer's expense until Customer remits all amounts owed (including storage expenses) or (b) ship such Customer Materials FOB Origin to Customer at Customer's last address of record at the customer's expense.

This is a service agreement and does not constitute a lease of any real property or create any tenant or other real property rights. Customer has been granted only a license to occupy the Customer Area and use the CenturyLink Premises and any CenturyLink Equipment in accordance with the Agreement and agrees that this Schedule, to the extent it involves the use of space leased by CenturyLink, shall be subordinate to any lease between CenturyLink and its landlord(s). Customer hereby waives and releases any claims that it may have against the landlord(s) under any lease by CenturyLink with respect to any Customer Equipment or property located in the CenturyLink Premises demised to CenturyLink by such landlord(s). If the CenturyLink Premises becomes the subject of a taking by eminent domain by any authority having such power, CenturyLink shall have the right to terminate any or all of the affected Services without liability; provided, however, that CenturyLink will use commercially reasonable efforts to move Customer to another, comparable CenturyLink Premises prior to exercising such termination right. CenturyLink shall have the right to terminate any or all of the Services without liability of any kind upon the expiration of or termination of CenturyLink's underlying lease for the CenturyLink Premises. The parties agree that any renewal of the Services shall be contingent on the election by CenturyLink, in its sole discretion, to continue to own or lease the CenturyLink Premises.

**CENTURYLINK SERVICE LEVEL ATTACHMENT -
Colocation Services Service Level Agreement ("SLA")**

This Colocation Services Service Level Attachment ("SLA" or "SLA Attachment") sets forth the applicable service levels ("**Service Levels**") for the Colocation Services ("**Services**") provided to Customer within a CenturyLink Facility. This SLA Attachment is subject to and incorporated into the CenturyLink Master Service Agreement, including the Colocation Service Schedule between the parties and any terms not defined in this SLA Attachment shall have the meaning set forth therein.

1. Service Levels and Service Credits

The Services are provided with the following categories of Service Levels:

- A.** Power Availability
- B.** Temperature and Humidity

In the event of a Service Level Failure (hereinafter defined), Customer may be entitled to receive the applicable service credit set forth herein ("**Service Credits**"). Eligibility for Service Credits related to Power Availability is dependent upon the Customer's selection of the Power Source Connection listed below:

Power Source Connection	Services eligible for a Power Availability Service Credit (Service Credit based on the Monthly Recurring Charge ("MRC") for the Affected Service)
Primary and Redundant	Colocation Service Allocation and Power Distribution only
Primary Only	None

A. POWER AVAILABILITY

The Colocation Service is provided with the Power Availability Service Level set forth below:

Power Availability	100%
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In order to be eligible for Power Availability Service Level, Customer (i) shall maintain and utilize primary and redundant power sources and equipment capable of operating at 100% of load, without sustaining an outage solely caused by power being lost to just one of the two power sources, (ii) shall use cabling that meets national electrical and fire standards and any specification required by CenturyLink, (iii) shall connect its Equipment directly into both the A power source and the B power source, (iv) shall not permit power utilization to exceed the power rating identified in the Service Order, unless provided otherwise in the Service Schedule or the Service Order, and (v) shall maintain all Customer Equipment in compliance with the electrical regulations of the region where such Customer Equipment is installed.

If the Colocation Service is subject to a Power Outage, a Power Availability Service Level Failure shall be deemed to occur and Customer may be entitled to a Service Credit as set forth in the table below. Service Credits for Power Outages are based on cumulative Power Outages over a calendar month. All Power Outage measurements will be based on CenturyLink's internal monitoring equipment and records.

Cumulative Duration of Power Outages within a Calendar Month	Service Credit for Power Outages based on a Percentage of MRC for the Affected Service of the Colocation Service
≥1 minute and < 45 minutes	5%
≥45 minutes and < 3 hours, 37 minutes	10%
≥3 hours, 37 minutes and < 7 hours, 12 minutes	20%
≥ than 7 hours, 12 minutes	30%

B. TEMPERATURE AND HUMIDITY

The Colocation Service is provided with the following Temperature and Humidity Service Levels in accordance with the terms of this SLA.

Data Center ("DC") Environment	Service Level
DC Temperature	Within the allowable ASHRAE range of 59°F to 90°F.
DC Non-Condensing Humidity Range	Within the allowable ASHRAE range of 20% relative humidity to 80% relative humidity or a 62°F dew point.

A **"Temperature Service Level Failure"** shall occur as a result of the DC temperature falling below 59° Fahrenheit or exceeding to 90° Fahrenheit, as allowed range under ASHRAE, for at least one hundred twenty (120) consecutive minutes in either case for reasons other than an Excluded Event. In the event that a Temperature Service Level Failure occurs two or more times during any calendar month then subject to the terms of this SLA, Customer will be entitled to a Service Credit in a amount equal to 1/30th of the MRC for the Affected Services of the Colocation Service paid by Customer in the month that the Temperature Service Level Failure occurred.

A **"Humidity Service Level Failure"** shall occur as a result of the DC humidity falling below 20% relative humidity or exceeding 80% relative humidity or 62° Fahrenheit dew point, as allowed range under ASHRAE, for at least one hundred twenty (120) consecutive minutes in either case for reasons other than an Excluded Event. In the event that a Humidity Service Level Failure occurs two or more times during any calendar month then subject to the terms of this SLA, Customer will be entitled to a Service Credit in an amount equal to 1/30th of the MRC for the Affected Services of the Colocation Service paid by Customer in the month that the Humidity Service Level Failure occurred.

2. Maintenance

Current scheduled maintenance windows are described in the CenturyLink Customer Guide and Handbook ("**Scheduled Maintenance**"). CenturyLink has the right to perform Scheduled Maintenance or Emergency Maintenance, which may limit or suspend the Availability of the Services. The suspension of the Availability of any of the Services during Scheduled or Emergency Maintenance shall not be deemed a Service Level Failure (e.g., Power Outage, Temperature Service Level Failure, or Humidity Service Level Failure) and Customer shall not be entitled to any Service Credit. CenturyLink shall provide Customer with at least ten (10) days prior written notice of any Scheduled Maintenance activities via the customer portal. Emergency Maintenance may not be posted because of its immediate nature.

Customer shall be entitled to defer any Scheduled Maintenance on CenturyLink Services that only affects Customer; provided, however, Customer shall not be entitled to any Service Credits as set forth above to the extent that CenturyLink's failure to satisfy any of its obligations under this SLA Attachment is due to CenturyLink's inability to conduct Scheduled Maintenance as originally scheduled and as measured from such date that the Scheduled Maintenance would have ordinarily occurred. The parties shall work together in good faith to determine a new mutually agreed upon Scheduled Maintenance date and time. Customer shall not be entitled to defer Emergency Maintenance.

3. Process

Customer must request any Service Credit that may be due hereunder by submitting an e-mail to billing.services@cyxtera.com within sixty (60) calendar days of the conclusion of the month in which the Service Level Failure(s) occurs. Customer waives any right to Service Credits not requested within this sixty (60) calendar day period. Service Credits will be issued once validated by CenturyLink and applied toward the invoice which Customer receives no later than two (2) months following Customer's Service Credit request. All performance calculations and applicable Service Credits are based on CenturyLink records and data unless Customer can provide CenturyLink with clear and convincing evidence to the contrary within such sixty (60) calendar day period.

4. Limitations

Customer will not be eligible to accrue any otherwise applicable Service Credits if Customer is in breach or default under any provisions of the Agreement at the time the Service Level Failure occurred and will not be entitled to any otherwise available Service Credit if Customer is in breach or default under any provisions of the Agreement at the time such Service Credit is requested by Customer until such breach is cured.

In no event will the total Service Credits accrued in any single month exceed, in the aggregate across all Service Levels and events, fifty percent (50%) of the invoiced amount for the Affected Service.

This SLA provides Customer's sole and exclusive remedies for any Service interruptions, deficiencies, or failures of any kind. To clarify, such sole and exclusive remedies shall not apply to breaches of unrelated obligations under the Agreement such as infringement, confidentiality, etc. Service Levels and Service Credits set forth in this SLA Attachment shall not apply with respect to any Excluded Events. "**Excluded Event**" means any event that adversely impacts the Colocation Service that is caused by (a) the acts or omissions of Customer, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by CenturyLink; (c) Force Majeure events; (d) Scheduled or Emergency Maintenance; (e) any suspension of Service pursuant to the Agreement; (f) the unavailability of required Customer personnel, including as a result of failure to provide CenturyLink with accurate, current contact information; (g) any other circumstance specified in the applicable SG; or (h) any failure in internet and/or bandwidth connectivity.

5. Definitions

"**Affected Service**" means the portion of Services expressly identified above as within the scope of this SLA that is directly impacted by the failure to meet the relevant Service Level described in this SLA Attachment.

"**Availability**" means the percentage of time during a month in which the Colocation Services is not subject to an outage.

Availability is calculated as follows:

$$\text{"Availability"} = \frac{(\text{Total minutes in a calendar month}) - (\text{Total minutes of outages during a calendar month})}{(\text{Total minutes in a calendar month})} \times 100$$

"**Customer Area**" means the specific portion of a CenturyLink Facility in which the Colocation Service is provided to Customer.

"**Emergency Maintenance**" means unscheduled maintenance to the Services which must be performed on an immediate basis where failure to do so is likely to result in an imminent and/or material Service deficiency.

"**Facility**" means CenturyLink Data Center building, or location in which the Customer Area is located.

"**Power Outage**" means any period of at least one minute during which Customer is unable to utilize the Colocation Service due to CenturyLink's failure to provide Customer with the specified power in the Customer Area for reasons other than an Excluded Event. All Power Outage measurements will be rounded to the nearest one minute increment.

"**Regions**" mean the areas described and abbreviated below:

North America: Canada & USA

North America - East (NA-E): USA & Canada, Eastern Standard Time

North America - Central (NA-C): USA & Canada, Central Standard Time

North America - West (NA-W): USA & Canada, Mountain & Pacific Standard Time

Europe: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Netherlands, Norway, Poland, Spain, Sweden, Switzerland and UK

Europe - East (EE): Hungary, Poland

Europe - West (EW): Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Norway, Spain, Sweden, Switzerland and UK

Asia/Pacific Rim: Australia, Hong Kong, Japan, Korea, Malaysia, New Zealand, Taiwan and Singapore

Asia/Pac Rim - North 1 (AP-N1): Japan and Korea

Asia/Pac Rim - North 2 (AP-N2): Hong Kong and Taiwan

Asia/Pac Rim - South (AP-S): Malaysia and Singapore

Asia/Pac Rim - Australia (AP-A): Australia, New Zealand

"**Service Credit**" means an amount deducted from fees billed to Customer in the event of a Service Level Failure.

"**Service Level Failure**" means Power Outage, Temperature Service Level Failure, or Humidity Service Level Failure.