

# CUSTOMER PURCHASE AGREEMENT

## GTA Direct – Network Services

This Customer Purchase Agreement for GTA Direct – Network Services (the “CPA”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2020 (the “Effective Date”), by and between AT&T Corp. (“AT&T”) and \_\_\_\_\_ (“Customer”). AT&T and Customer are sometimes referred to herein individually as a “Party” or collectively, as the “Parties”.

### 1. **Recitals.**

**1.1** AT&T and the Georgia Technology Authority (“GTA”) entered into that certain Master Services Agreement GTA Direct – Network Services RFP, Contract Number: 98000-DIRNETSVC-RFP-4666-ATT, effective as of October 26, 2020 (the “MSA”) to provide the network telecommunications, data and professional services described therein (the “Services”).

**1.2** Under the MSA, an eligible state and local government body or entity within the State of Georgia is authorized to purchase Services under the MSA pursuant to the terms of this CPA as a “Customer”; provided, however, that specified executive branch agencies, (identified in Section 1.2 of the Request for Proposal (RFP): 98000-00000-4666 GTA Direct- Network Services), are expressly prohibited from purchasing Services under the MSA.

**1.3.** Customer desires to purchase Services in accordance with the terms of this CPA.

**2. **Authority; Purchase of Services.**** Customer represents and warrants that Customer is eligible and authorized to purchase Service pursuant to the terms of the MSA. By executing this CPA, Customer agrees to the terms, conditions and prices for the Services as described in the GTA Direct Catalog of Services, as may be modified from time to time, attached to and incorporated into the MSA as Exhibit A, and the applicable Service Order Request, in the form attached hereto as Exhibit 1 (the “Service Order Request”). Customer agrees to place orders for Services hereunder directly with its designated AT&T Account Representative on a Service Order Request. Customer further acknowledges and agrees that only individuals authorized by Customer are authorized to place orders for Services pursuant to a Service Order Request and AT&T may rely on the authority of such individual to place orders without independent verification. Each Service Order Request delivered by Customer shall be deemed to incorporate the terms of this CPA and shall become a part hereof.

**3. **Incorporation of MSA.**** AT&T and Customer agree that all the terms and conditions of the MSA are incorporated into the CPA by this reference and that all orders for Services are subject to the terms of the MSA. Customer acknowledges and agrees that it has reviewed, understands and agrees to the terms of the MSA. In the event of any conflict between this CPA and the MSA, the MSA shall control. In furtherance of the foregoing, Customer hereby consents to, agrees to be bound by, and waives notice of any extensions, deletions or other modifications of the terms and conditions of the MSA as agreed upon by GTA and AT&T (including, without limitation, any extension of the initial term, any addition of new products, services or programs, or any deletions or modifications of program benefits). Customer further acknowledges and agrees that all terms, conditions, rights and remedies under the MSA are fully enforceable against Customer as if Customer were GTA; provided, however, that (a) Customer has no right to terminate the MSA or any other customer’s CPA; (b) Customer has no right to any notices under the MSA; (c) any and all other rights and remedies available to Customer hereunder will be applicable to Customer only with respect to this CPA; and (d) notwithstanding Section 2.4 of the MSA (Termination for Convenience), if a Customer elects to terminate a Service Order Request with a term commitment (base plus renewal options), prior to the end of the term, Customer may be subject to termination fees and expenses in certain instances as more fully described in the applicable Service Order Request.

**4. **GTA Not Liable for Customer Purchases.**** Customer acknowledges and agrees that it is solely responsible for all Services purchased hereunder.

5. **Term.** The term of this CPA shall be conterminous with the MSA. The term of specific Services ordered hereunder shall be subject to the term set forth in the applicable Service Order Request.

6. **Termination by AT&T.** If Customer fails to pay AT&T when due undisputed invoiced amounts totaling at least two (2) months' worth of Charges under this CPA, and fails to make such payment within thirty (30) days after the date Customer receives notice of non-payment from AT&T, then AT&T may terminate this CPA by sending written notice to Customer.

7. **Order of Precedence.** Pursuant to Section 3 hereof, the MSA shall take priority over this CPA. However, in the event of any inconsistency among this CPA and a Service Order Request, the order of priority shall be that the Service Order Request takes priority.

8. **Consent to Sharing of Information.** Customer acknowledges that AT&T may share with GTA certain billing information and service type and volume data extracted from Service Order Requests ("Shared Information"). Customer understands that AT&T may present the Shared Information to GTA in an aggregated format so that specific identifying information regarding individual an Customer will not be available. Additionally, Customer acknowledges and agrees that AT&T may share with GTA a copy of each CPA executed by respective Customers as well as the name of the Customer contact person designated by each Customer in their respective CPA, as set out in Section 13 below of this template. Subject to the limitations on disclosure described in this Section 8, Customer hereby consents to AT&T sharing with GTA the Shared Information as described in this Section 8, as well as copies of the executed CPA and the name of the Customer contact person designated in the CPA for communication with GTA about this CPA.

9. **LIMITATION OF LIABILITY.**

**9.1 Disclaimer of Certain Damages.**

NEITHER AT&T NOR CUSTOMER SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING LOSS OF USE OR LOST BUSINESS, REVENUE, PROFITS, OR GOODWILL, ARISING IN CONNECTION WITH THIS CPA, EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

**9.2 Cap on Liability.**

IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY UNDER CPA EXCEED THE AMOUNT OF THE CHARGES PAID OR PAYABLE BY AT&T DURING THE TWENTY FOUR (24) MONTHS BEFORE THE EVENT GIVING RISE TO SUCH LIABILITY; PROVIDED THAT IF THE EVENT GIVING RISE TO LIABILITY OCCURS DURING THE FIRST TWENTY FOUR (24) MONTHS AFTER THE EFFECTIVE DATE OF THIS CPA, THE AMOUNT SHALL BE CALCULATED AS THE AMOUNT ANTICIPATED TO BE PAID BY AT&T DURING THE FIRST TWENTY FOUR (24) MONTHS AFTER THE EFFECTIVE DATE OF THIS CPA, OR TWENTY FOUR (24) TIMES THE AVERAGE MONTHLY CHARGES THUS FAR, WHICHEVER IS MORE.

**9.3 Exclusions and Stipulations.**

THE PROVISIONS ABOVE IN THIS SECTION 9 SHALL NOT APPLY TO LOSSES ARISING OUT OF AT&T'S GROSS NEGLIGENCE OR WILLFUL OR INTENTIONAL MISCONDUCT IN PERFORMING SERVICES UNDER THIS CPA.

10. **CHARGES.** Charges and Expenses. Prices, fees, charges or rates for the Services (collectively, the "Charges") will be set forth in the GTA Direct Catalog of Services or applicable Service Order Request. Such Charges will fully compensate AT&T for providing the Services. AT&T acknowledges that, except as may be otherwise expressly provided in this Customer Purchase Agreement, all expenses that AT&T incurs in performing the Services are included in AT&T's Charges and not separately reimbursable by Customer. All pricing and charges will be in U.S. Dollars.

11. **INVOICING AND PAYMENT.**

**11.1** AT&T shall invoice Customer, and Customer shall pay AT&T, for the Services performed in accordance with the GTA Direct Catalog of Services or applicable or Service Order Request. Unless otherwise set forth in the GTA Direct Catalog of Services or applicable Service Order Request, AT&T shall render such invoices monthly in arrears. Customer shall pay undisputed, invoiced amounts no later than thirty (30) days after Customer's receipt of an accurate invoice.

**11.2** If Customer disputes any invoiced amount in good faith, Customer may withhold payment of such disputed amounts until the Parties resolve the dispute, provided that Customer shall timely pay all undisputed amounts on such invoice. If Customer elects to dispute an invoice, Customer must inform AT&T, in writing, of the basis for the dispute and identify the amounts at issue, prior to the due date for payment of the invoice so the contested amount does not become past due. If Customer disputes a charge, Customer must provide such notice to AT&T within 6 months after the date of the invoice in which the disputed charge initially appears, or Customer waives the right to dispute the charge. Customer will not be required to pay charges for Services initially invoiced more than 6 months after close of the billing period in which the charges were incurred. No late payment or interest shall accrue on past-due amounts.

**12.** Miscellaneous. The laws of the State of Georgia, without regard to its conflict of laws principles, govern all matters arising out of or relating to this CPA and the transactions it contemplates, including its interpretation, construction, performance and enforcement. Any lawsuit or other action based on a claim arising from this CPA shall be brought in the Superior Court of Fulton County, Georgia. This Customer Purchase Agreement, any Service Order Requests delivered to AT&T hereunder and the MSA, contain the entire agreement between the parties with respect to the subject matter hereof, and supersede all prior understandings, or oral or written agreements relating to such subject matter. Unless otherwise defined, capitalized terms in this CPA have the meanings ascribed to them in the MSA.

**13.** Designated Contact Person to Communicate with GTA and Receive Notices Under the CPA. Customer designates the individual identified below as the contact person to communicate with GTA concerning this CPA as contemplated in Section 8 above and to receive notices, requests demands, and other communications permitted or required under this CPA:

**Name:**  
**Title:**  
**E-mail:**  
**Mobile:**  
**Work Number:**  
**Address:**

**IN WITNESS WHEREOF**, the parties hereto have executed this CPA as of the date first written above by their duly authorized representatives.

**AT&T Corp.**

**Customer Name:** \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit 3 - Attachment A**  
**(Form of Customer Participation Acknowledgment)**

This **Customer Participation Acknowledgment** is executed and delivered by the undersigned ("**Customer**"), in connection with its participation in the GTA Direct Network Services Program, including its execution of that certain Customer Purchase Agreement dated \_\_\_\_\_, 20\_\_ with AT&T Corp. ("**Service Provider**") and for the benefit of GTA and the State of Georgia. Terms not defined in this Customer Acknowledgment have the meanings applicable under the Customer Participation Agreement or other applicable GTA Direct Network Services documentation.

Customer acknowledges and agrees that in participating in the GTA Direct Network Services Program (including its execution of the Customer Purchase Agreement), it is acting solely on its own behalf and that neither GTA nor the State of Georgia (nor any third party) will be liable under or with respect thereto, including for any of Customer's or Service Provider's obligations in connection therewith or with respect to any delivery or failure of the Services. Any claim or cause of action that Customer may have under the Customer Purchase Agreement shall not be exercisable against GTA or the State of Georgia.

Customer acknowledges and agrees that AT&T may provide GTA with information about the Customer Purchase Agreement and Customer's continuing participation in the GTA Direct Network Services Program, including the Services provided, Service Levels attained, and the payable charges. Customer further acknowledges and agrees that it will comply with applicable requirements under the GTA Direct Network Services Program.

**[Name of Customer]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **Attachment B Insurance**

AT&T Certificate of Insurance will be attached below in the name of the Customer and will be submitted separately to customer.

**EXHIBIT "A"**

**GTA DIRECT CATALOG OF SERVICES**

Exhibit 1 of the AT&T RFP submission and Master Services Agreement, 'Catalogue of Services, Service Levels, Pricing' is hereby incorporated by reference.

**EXHIBIT "B"**  
**SERVICE ORDER REQUEST FORM**

A sample Service Order Request Form is included below. This form should be used whenever placing orders with AT&T under this Customer Purchase Agreement.

STATE OF GEORGIA - GTA DIRECT

EXHIBIT B - AT&T SERVICE ORDER REQUEST  
Under Customer Participation Agreement  
# \_\_\_\_\_

This Service Order Request is issued by \_\_\_\_\_ as an eligible Participating Entity ("Customer") under the AT&T Customer Participation Agreement # \_\_\_\_\_ identified above ("CPA"). Customer agrees to purchase the Services described herein in the quantities and rates set forth in the Service Quote attached hereto and incorporated herein.

*1. Participating Entity*

Request Number (optional) \_\_\_\_\_ Date \_\_\_\_\_

Participating Entity Name \_\_\_\_\_

*2. Requesting Customer Information*

**Account Name**

**Contact Name**

**Office Number**

**Mobile Number**

**Division (Unit, etc.)**

**Email Address**

**Requested Service Address**

**Requested Billing Address**

**Billing Contact (name/title/phone/email)**

*3. Technical Contact Information*

**Name**

**Email Address**

**Office Number**

**Mobile Number**

**Address**

**City**

**State**

**Zip Code**

*4. Order Detail*

Services(s) Requested (attach quote for detail)

Add  Disconnect  Change   
Move

Requested Date of Service

Check all services being ordered in this SOR

- ASEoD    ASE Classic    ADI Basic    ADI Managed    Broadband    Cable and Wiring
- Conferencing Audio – Reservationless    Conferencing – Zoom    Centrex    IP Flexible Reach
- Long Distance (ABN)    Managed Router Service    Office@Hand    POTS    Primary Rate ISDN    Professional Services

AT&T CPA Contract Number

Existing Billing Account Number (if applicable)

**Catalog Product/Service Request Description**

NOTE TO CUSTOMER: Please include the applicable Service Quote with this Service Order Request. The Service Quote is incorporated into and becomes a part of this Service Order Request.

This CPA is subject to the terms and conditions of the Master Services Agreement, GTA Direct – Network Services, RFP, Contract Number: 98000-DIRNETSVC-RFP-4666-\_\_\_\_, effective as of \_\_\_\_\_ (the “MSA”), and the CPA identified above.. All terms and conditions of the CPA and the MSA, including without limitation the services terms and prices set forth in the Catalog attached to the MSA as Exhibit \_\_\_\_ are incorporated herein by reference.