



## BUSINESS MASTER SERVICES AGREEMENT

PLEASE READ THE TERMS AND CONDITIONS CAREFULLY. For the purposes of this document, the term "GTA" refers to GTA TeleGuam and TeleGuam Holdings LLC. The terms "you" and "your" refer to the person or entity that has signed this Agreement for Services. The terms "Service" or "Services" includes and incorporates wireless, broadband, managed services, digital television, and/or other services ordered on the Customer Application and any additional services you may order or obtain from GTA at any time that are not expressly governed by another agreement you sign with us. The word "Master Services Agreement" or "Amendment" or "Service Order", includes and incorporates the Customer Application, the Terms and Conditions, the GTA rules and policies applying to the use of the Services, and any GTA addenda that you may sign at any time.

WHEREAS, GTA provides communications services, which Customer desires to procure, as set forth herein. Now, therefore, it is agreed as follows:

1. **DESCRIPTION OF SERVICES** - During the term of this Agreement, GTA will provide Customer with the specific services (the "Services"), where service and facilities exist, as set forth in any addendum, schedule, service order or similar attachment (collectively referred to as "Service Order") attached hereto and incorporated herein by this reference.
2. **TERMINATION**
  - 2.1. The initial term of this Agreement shall begin on the date the services are installed and completed (the "Commencement Date") and shall continue for 5 years (the "Initial Term") unless terminated earlier as permitted in this Agreement. Thereafter, this Agreement shall extend automatically for successive periods of one-year (each a "Renewal Term") without discounts or credit unless either party provides written notice of its intent not to renew not less than thirty (30) days prior to the end of the Initial Term or the then-current Renewal Term. The Initial Term and all Renewal Term(s) are hereinafter collectively referred to as the "Term".
  - 2.2. Notwithstanding Section 2.1, this Agreement may be terminated as follows:
    - 2.2.1. Breach by GTA: Customer may terminate this Agreement upon a failure by GTA to provide the Services required under this Agreement or the applicable Service Order pursuant to Sections 1.0 (Description of Services) and 4.4 of this Agreement or any other material breach of this Agreement or the applicable Service Order and such breach shall remain continuing for thirty (30) days after GTA's receipt of written notice of such breach from Customer. In the event that GTA shall have taken actions to commence to cure such breach of Section 1.0 (Description of Services) and 4.4 within the thirty (30) day period after receipt of such notice from Customer and such alleged breach is of the nature which cannot be cured within thirty (30) days, GTA shall be extended an additional 30 day period in which it may cure such breach.
    - 2.2.2. Breach by Customer: GTA may, at its sole discretion, terminate this Agreement or suspend Services in the event of either of the following: (a) upon failure of Customer to timely pay any undisputed amounts in accordance with Section 3.0 of this Agreement inclusive of Sections 3.1, 3.2 and 3.3 within the timeframe specified in GTA's written notice; or (b) upon any material breach by Customer of any of its other obligations under this Agreement continuing for thirty (30) days after receipt of written notice from GTA thereof or such longer cure period mutually agreed upon by the parties.
    - 2.2.3. Mutual Termination Rights: Moreover, either party may terminate this Agreement immediately, without penalty, upon written notice to the other party in the event of: (a) a party's insolvency, bankruptcy, assignment for the benefit of creditors, appointment of a trustee or receiver, or similar event; (b) any governmental prohibition, regulatory or tariff change or required alteration of the services to be provided hereunder; or (c) any violation by a party hereto of any applicable law, rule or regulation.

- 2.3. Any termination shall not relieve Customer of its obligation to pay any undisputed charges incurred hereunder prior to such effective date of termination.
- 2.4. The parties' rights and obligations, which by their nature would extend beyond termination, cancellation, or expiration of this Agreement, shall survive such termination, cancellation, or expiration.

### 3. PAYMENT

- 3.1. During the Term of this Agreement, Customer shall pay GTA for the services as set forth in Schedule 1- Price Table or any applicable Service Order orders under this Agreement. GTA shall bill services during the initial term for services as set forth in Schedule 1- Price Table or any applicable Service Orders under this Agreement, unless rates terms and conditions of any applicable Guam or federal tariffs of GTA are modified in the future and approved by respective regulatory bodies or as noted in Section 3.4 below and Customer hereby agrees to pay such increased pricing for such Services within ten (10) days of receipt of notice of such pricing increase from GTA. GTA may increase the pricing for the Services as set forth in the Service Order during any Renewal Term upon thirty (30) days' prior written notice; provided, however, that if Customer objects to such increased pricing, GTA or Customer may terminate this Agreement or the applicable Service, immediately without penalty, upon prior written notice to other party. In addition to amounts owed for the Services provided under this Agreement and applicable Service Order, Customer shall also pay over and reimburse GTA, on each payment due during the Term hereof, an amount equal to that portion of Guam business privilege or gross receipts tax assessed to GTA and attributable to the payments received for the Services provided and other payments made by or on behalf of Customer under the terms of this Agreement, if any, and Customer shall also pay all and any increases in said taxes from time to time and any and all other taxes or duties levied or assessed by the United States, the Government of Guam, or any other political subdivision of the U.S Territory of Guam now or hereafter having power to levy taxes or duties which are attributable to the payments received by GTA for the Services provided hereunder or the applicable Service Order or other payments made by or on behalf of GTA under the terms of this Agreement.
- 3.2. If GTA, at Customer's request, completes a service call and determines that no problems exist in GTA's services or facilities, GTA may charge the Customer for the service call at rates generally charged by GTA to its customers unless the parties mutually agree to apply different rates or to waive such charges.
- 3.3. Any dispute of invoiced amounts must be submitted to GTA in writing within sixty (60) calendar days of Customer's receipt of the first invoice for the applicable charges. In the event that any disputed amounts shall not be submitted in writing to GTA within such 60-calendar day period, the disputed amount shall be deemed accepted and valid by Customer and Customer shall pay GTA for such amounts no later than thirty (30) calendar days from Customer's receipt of the most current invoice.
- 3.4. Inflation. At the end of the first year of this contract and each year after, a CPI percentage change calculation shall be performed. Should the annual inflation rate increase greater than 2% during the previous year, GTA shall have the right to increase all future prices by the percentage increase since the Effective Date in consumer prices for services as measured by the United States Consumer Price Index entitled "Telecommunication Services" or a similar index should such index no longer be published exceeding 2%.

### 4. CREDITS

- 4.1. Customer acknowledges that unforeseen events occurring during the term of this Agreement may result in the interruption of services provided to Customer. In order to determine the cause of any interruptions and avoid any delays and prolonged periods of interruption, it is critical for Customer to provide immediate notification of the existence of a service interruption. Consequently, for purposes of determining credits to be afforded Customer as a result of any interruption of services (a "service interruption"), the service interruption period shall be deemed to start and commence when the service interruption is reported to the GTA Call Center, and ends when the service becomes operative. In addition to the events as noted in this Section 4.0, a credit allowance is not given when interruption is due to fault at the customer's end. The Customer will receive a credit for interruptions of 30 minutes or more. The rate is 1/1440 of the fixed monthly charges for each period of 30 minutes or major fraction thereof. Credit allowance shall not exceed the monthly fixed rate. The allowance will be payable in the form of a credit to the Customer's account.
- 4.2. A service interruption will be deemed to have occurred only if service becomes unusable to Customer as a result of GTA's facility, equipment, or personnel used to provide the service in question, and only where the interruption is not the result of: (i) the negligence or willful acts of Customer or its agents; (ii) the failure or malfunction of a non-GTA equipment or systems, (iii) Force Majeure Event; or (iv) a service interruption caused by scheduled maintenance, alteration, or implementation, which GTA has provided Customer with at least ten (10) business days' prior written notice of such scheduled maintenance, which notice shall clearly state the reason for the maintenance and the expected downtime. Such credits will be granted only if Customer affords GTA full and free access to Customer's premises to extent reasonably necessary make appropriate repairs, maintenance, testing, etc. subject however to GTA's compliance with Customer's applicable security policies and procedures and Customer does not continue to use the service on an impaired basis unless otherwise mutually agreed to by the parties.

- 4.3. The foregoing states Customer's sole remedy for service interruption under this Agreement and in no event shall GTA be liable for any, indirect, incidental, consequential, punitive, or special damages. GTA's entire liability for any claim, loss, damage, or expense from any cause whatsoever shall in no event exceed sums actually paid to GTA by Customer for the specific service giving rise to the claim; provided, however, that the foregoing limitations as set forth in this Section 4.3 shall not limit or restrict (i) Customer's rights and remedies in the event that such service interruption arises out of or results from: GTA's gross negligence or willful misconduct, or (ii) GTA's indemnification obligations under this Agreement.
- 4.4. GTA warrants that services shall conform to performance specifications established by Customer (including, without limitation, any and all applicable SLAs) and accepted by GTA whenever such specifications are incorporated by reference in a Service Order, but in no case shall GTA service fail to meet prevailing industry standards for equivalent services. The parties agree that for the purposes of this Agreement, industry standards shall be defined as the standards set forth in the relevant BellCore technical references and technical advisories.
- 4.5. There are no warranties, representations, or agreements expressed or implied either in fact or by operation of law, statutory or otherwise, including warranties of merchantability or fitness for a particular purpose, except those expressly set forth herein.
5. **CANCELLATION** – In the event Customer cancels or terminates service prior to the end of the Initial Term or any Renewal Term, other than as provided above in Paragraphs 2.2.1 (Breach by GTA) and 2.2.3 (Mutual Termination Rights), Customer agrees to pay GTA as liquidated damages (and not as a penalty) the following sums which shall become due and owing as of the effective date of cancellation or termination and be payable in accordance with Paragraph 2.0 of MSA:
  - 5.1. all Non-recurring Charges specified in a Service Order and reasonably expended by GTA to establish initial or additional services to the Customer;
  - 5.2. any disconnection, early cancellation, or termination charge reasonably incurred by GTA on behalf of Customer;
  - 5.3. 100% of the Monthly Recurring Charges for the remaining portion of the contract term discounted at 15%; and
  - 5.4. the reasonable costs associated with the removal of all equipment specially ordered to service Customer, including: crating, shipping, and insurance charges to return the equipment to the GTA facility nearest to the Customer if GTA can utilize the equipment.
6. **MAINTENANCE WINDOW** - GTA may shut down the Services as contracted under Section 1.0 in accordance with reasonable pre-scheduled maintenance windows mutually agreed by the parties or at any time due to a security breach. The scheduled maintenance windows shall always be planned to be performed outside usual business hours, or if such timing is not practicable, shall be planned to be performed so that such downtime shall not adversely and unduly affect Customer operations to which the provision of such services relate. In the event maintenance is nonscheduled, where feasible GTA shall notify Customer in writing (electronic or otherwise) not less than twenty-four (24) hours in advance of such emergency maintenance. Where written notice is not feasible, GTA shall give prompt oral notice to Customer's Level 1 Contact, which notice shall be promptly confirmed in writing (electronic or otherwise) by GTA. GTA shall afford Customer the benefit of any arrangements for substitute services during normal maintenance windows to the extent that GTA makes available such substitute services for its own comparable business operations. For any scheduled maintenance, GTA shall provide Customer with at least ten (10) business days' prior written notice of such scheduled maintenance, which notice shall clearly state the reason for the maintenance and the expected downtime
7. **PARTIES' OBLIGATIONS**
  - 7.1. Customer shall allow GTA continuous access and right-of-way to Customer's premises, subject however to GTA's compliance with Customer's applicable security policies and procedures, to the extent reasonably required by GTA to perform its obligations (including maintenance of services, equipment, facilities, and systems) as required hereunder. Customer shall furnish GTA, at no charge, such equipment space and electrical power as is reasonably determined by GTA to be required and suitable to render services hereunder.
  - 7.2. Each party (the indemnifying party") shall be liable to the other party (the "indemnified party") for any and all damages to indemnified party's equipment, facility, and system; and shall fully indemnify and defend and hold harmless the indemnified party for such damages when caused by the negligent or willful acts of the indemnifying party, its agents or employees; or by a malfunction or failure of any equipment or facility provided by indemnifying party or its agents, employees, or suppliers.
  - 7.3. Each party represents and warrants that it is currently in compliance with all applicable laws, rules, regulations, and tariffs relating to all activities covered in this Agreement and that it has the requisite power and authority to carry its business as now conducted.
  - 7.4. Each party represents and warrants that it is a legally formed corporate entity, validly existing and is in good standing under the laws of the Territory of Guam.
  - 7.5. Each party represents and warrants that there is no pending or threatened action or proceeding affecting such party or any of its affiliates before any court, governmental agency or arbitrator which may materially affect the financial condition or operations of such party or its ability to perform its obligations under this Agreement.
  - 7.6. Each Party represents and warrants that this Agreement is a legal, valid and binding obligation of such party enforceable against such party in accordance with its terms and the person executing this Agreement possesses all

required power and authority to bind such party to the terms as provided herein.

**8. FORCE MAJEURE**

8.1. Neither party shall be liable for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by the following events and not directly caused by either party (each a "Force Majeure Event"): terrestrial cable cuts by non-GTA contractors, subsea cable cuts, flood, fire, typhoon, explosion, accident, war, strike, embargo, government acts and regulations, civil or military authority, national emergencies, Act of God, inability to secure materials, labor or transportation upon reasonable commercial terms, acts or omission of common carriers or warehousemen, power surges and outages, denial of service attacks, other "hacker" activity or any other causes beyond its commercially reasonable control. Any such delay or failure shall suspend this Agreement until the Force Majeure Event ceases and the length of suspension shall extend the Term of the Agreement. The party claiming the Force Majeure Event will provide the other party with prompt written notice of the occurrence of the Force Majeure Event, its anticipated duration and effect, its termination and such other matters as the other party reasonably requests

**9. CONFIDENTIAL INFORMATION**

- 9.1. Each party agrees to maintain in strict confidence all Confidential Information. For the purposes of this Agreement, "Confidential Information" shall include: (a), pricing, terms and conditions of this Agreement; and (b) any technical, managerial, financial or business information, whether in written, graphic, electromagnetic, verbal or other form (including but not limited to specifications, prototypes, software, models, drawings, product plans, pre-release products, marketing plans, business opportunities, customer lists, personnel data, research and development activities, know-how and third party information), that (i) the disclosing party marks or otherwise designates as "Confidential" or "Proprietary" or the like, or (ii) would be considered a trade secret of the disclosing party under normal international trade practice, or (iii) should reasonably be (or have been) understood by the receiving party (because of legends, markings, the circumstances of disclosure or the nature of the information itself) to be proprietary and/or confidential to the disclosing party, an affiliate of the disclosing party or a third party.
- 9.2. Confidential Information does not include information that is: (a) rightfully in the receiving party's possession before receipt from the disclosing party; (b) in the public domain without the fault of the receiving party; (c) received by the receiving party from a third party to the extent such third party permits use beyond the scope of this Agreement; (d) independently developed by the receiving party who had no knowledge of or access to any of the Confidential Information; or (e) disclosed by the receiving party with the disclosing party's prior written consent; provided, however, that with respect to clauses (a) and (c) above, the source of such information was not bound at the time of such disclosure by a non-disclosure, confidentiality, or similar agreement with the disclosing party or otherwise prohibited from transmitting the information to receiving party because of a contractual, legal, or fiduciary obligation. The receiving party shall have the burden of proving that any information that it or its Representatives (as defined below) use or disclose contrary to the terms of this Agreement is not Confidential Information.
- 9.3. Limitations on Disclosure. The receiving party is only permitted to disclose the Confidential Information: (a) to those employees, agents, professional advisors and subcontractors (and in the case of GTA, to those employees, agents and subcontractors of its affiliates) (collectively, "Representatives") who (i) have a commercially reasonable business need to know the Confidential Information, and (ii) are bound by confidentiality obligations at least as restrictive as those set forth in this Agreement; or (b) as may be required by law and compelled by an order issued by a court of competent jurisdiction or Guam Public Utilities Commission, provided that the receiving party will provide the disclosing party with prompt advance written notice, to the extent permitted by law, so that it may seek an appropriate protective order or reliable assurance that confidential treatment will be accorded all Confidential Information. The receiving party shall hold the Confidential Information in strict confidence and shall use the same degree of care that it uses to protect its own confidential information (but in no event less than a reasonable degree of care) to prevent unauthorized use or disclosure of the Confidential Information. The receiving party will be liable for all acts and omissions of its Representatives regarding this Agreement.
- 9.4. This Agreement shall cover all Confidential Information disclosed before and within 3 year(s) of the Term of this Agreement.

**10. GENERAL PROVISIONS**

- 10.1. This Agreement and any and all Service Orders hereto sets forth the full agreement of the parties with respect to the subject matter hereof and supersedes any prior agreement or understanding. In the event any provision of this Agreement shall be held to be invalid or unenforceable by any court of competent jurisdiction, then this Agreement shall be construed as if not containing the particular provision or provisions hereof held to be invalid or unenforceable, and all the other rights and obligations of the parties shall be construed and enforced accordingly.
- 10.2. No license, joint venture or partnership, expressed or implied, is granted by GTA pursuant to this Agreement.
- 10.3. Neither party may assign this Agreement without the written consent of the other party, except that either party may assign its rights and/or obligations hereunder to: (a) any subsidiary, parent company, or affiliate of either party or (b) pursuant to any sale or transfer of substantially all the business of either party; or (c) pursuant to any merger, or reorganization of either party.

- 10.4. If this Agreement is entered into by more than one Customer, each is jointly, and severally liable for all agreements, covenants and obligations herein.
- 10.5. The parties shall first seek to negotiate, in good faith and within 60 days, a resolution of their dispute and escalate disputes to senior management when appropriate.
- 10.6. In the event any dispute between the parties hereto results in litigation, all such actions or proceedings in any way, manner or respect arising out of or from or related to this agreement, the transaction documents or the transactions contemplated herein shall be litigated in the courts of Guam. Each of the parties hereto hereby consents and submits to the jurisdiction of the superior court of Guam and the U.S District Court of Guam. The parties hereto hereby waive any right they may have to transfer or change the venue of any litigation brought against such party in accordance with this section. In any action between the parties to enforce any material provision of this Agreement, the prevailing party shall be entitled to recover its reasonable legal fees and court cost from the non-prevailing party in addition to whatever other relief a court may award.
- 10.7. In the event of a conflict between General Term and Conditions, any Services Agreement, Quotations or Addenda, the order of the precedence shall be as follows: (1) General Terms and Conditions; (2) Services Agreement; (3) Quotation; (4) Addenda, unless specifically noted.
- 10.8. Any legal notices relating to this Agreement (including, without limitation, any notices alleging default or breach) required to be given in writing shall be deemed sufficiently given and served for all purposes when delivered personally, by generally recognized overnight courier service or by certified or registered United States mail, receipt requested, with postage prepaid, addressed as follows:

GTA: GTA  
624 N. Marine Corps Drive  
Tamuning, GU 96913  
Attn: Executive Office  
with copy to Legal Affairs  
Telephone Number: +16716440000  
Facsimile Number: +16716440010