

**Agreement  
by and between the  
County of Cuyahoga, Ohio  
and AT&T Corp  
for Network Integration Services**

This Agreement ("Agreement") is made and entered into on \_\_\_\_\_ the "Effective Date") by and between AT&T Corp, a corporation having a principal place of business at One AT&T Way, Bedminster, NJ 07921-0752 ("AT&T"), and the County of Cuyahoga, Ohio (the "County" or "Customer") on behalf of the Department of Information Technology ("ITD"), having a principal place of business at 1255 Euclid Avenue, Cleveland, Ohio 44115. AT&T and the County shall individually be referred to as a "Party" and jointly be referred to hereinafter as the "Parties."

WHEREAS, the County has a present need for Network Integration Services related to the proper operation of the County's email system; and

WHEREAS, AT&T provided a Hosted Exchange Mail Budgetary Proposal dated November 7, 2012, as amended by the Hosted Exchange Mail Final Proposal dated March 5, 2013 to provide such services as specifically set forth in the attached Statement of Work ("SOW"); and

WHEREAS, the County has decided to engage AT&T to provide the AT&T Network Integration Services for the County's email system and AT&T is willing to provide such services to the County upon all the terms and conditions set forth herein.

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

## **1. SCOPE OF SERVICES**

### **A. General**

AT&T shall provide to County the Services specified in the SOW, attached and incorporated herein as Exhibit 1. County acknowledges that this is the only SOW allowed under this Agreement.

### **B. Statement of Work**

(1) AT&T has the right to elect to have its obligations under the SOW performed by an AT&T Affiliate or a subcontractor. Accordingly, references in this Agreement or in an SOW to "AT&T" as well as to "Party" and "Parties" are deemed, where appropriate, to apply to the AT&T Affiliates or subcontractors.

(2) AT&T's performance under an SOW is conditioned on Customer's timely cooperation, which includes providing accurate information requested by AT&T. Customer acknowledges and agrees that AT&T relies on, and is under no obligation to verify independently, the accuracy or validity of information provided by Customer.

## **2. DEFINITIONS**

"Affiliate" means an entity (i) that controls, is controlled by, or is under common control with AT&T; (ii) that is registered and authorized to do business in the State of Ohio; and (iii) for whose performance under an SOW AT&T remains ultimately liable.

"Acceptable Use Policy" or "AUP" applies to Services provided over or accessing the Internet. The AUP applicable to this Agreement may be found at [att.com/aup](http://att.com/aup) to which Customer may subscribe for updates or other locations AT&T may designate with notice to Customer.

"Damages" means, collectively, the damage, expense, injury, interest, liability, loss, and penalty incurred by a Party in connection with this Agreement.

"Information" means a Party's proprietary or confidential information disclosed to the other Party in the course of performing this Agreement, and marked "Proprietary" or "Confidential" or, even if not so marked, treated as such because its nature or the circumstances under which it is disclosed, lead the Receiving Party to reasonably believe it to be confidential or proprietary.

"Law(s)" means the international, regional, national or federal, provincial, state, or local code, convention, executive order, law, ordinance, rule, regulation, and statute, which applies to or governs any element of the Parties' performance under this Agreement and a SOW, and which extends to the obtaining of authorizations and permits, record-keeping, and reporting.

"Services" means the services specified in the SOW performed by AT&T, its subcontractors or Affiliates.

"Site" means the Customer location at which Services are performed or their benefits enjoyed.

"Supplier" means a subcontractor of AT&T.

"Users" means anyone authorized by the County who uses or accesses any Service provided to Customer under this Agreement. Customer will cause Users to comply with this Agreement and Customer agrees that Customer is responsible for Users' use of any Service, unless expressly provided to the contrary in the SOW.

### 3. TERM

This Agreement shall commence on the Effective Date and expire after thirty-six (36) months, unless otherwise extended by mutual written agreement or sooner cancelled or terminated pursuant to the terms of this Agreement.

### 4. INVOICES and PAYMENTS

A. The County agrees to pay AT&T for the Services provided under this Agreement, and in accordance with Exhibit 1, an amount not to exceed **\$339,906.60** over the Term of the Agreement.

B. As more fully described in Exhibit 1, County agrees to pay AT&T as follows:

(1) From the Effective Date of this Agreement to ~~June~~ <sup>Sept</sup> 30, 2014, the fee shall be **\$169,042.20**.

(2) For subsequent contract years payment shall be due and payable as described herein, and shall be **\$85,432.20** per year.

(3) In the event the scope of Services hereunder changes and results in an increase of the cost in any year of this Agreement, the Agreement shall be amended in writing by the Parties. The above listed amounts are based on the rates and quantities in Section 6.1 of the SOW and do not include other charges.

C. Invoices for Services shall be issued monthly, in arrears. Customer's payment will be not later than thirty (30) days after receipt of invoice and will refer to the invoice number. Payments will be without deduction or set-off, subject to the right to withhold payment where Customer, in good faith and on the basis of facts provided to AT&T in writing, disputes a charge within thirty (30) days after receipt of the invoice. A service charge of the lesser of one and one-half percent (1½%) per month (18% per annum) or the maximum amount allowed by law will be charged on all past due balances. Restrictive endorsements or other statements on checks are void.

D. Charges exclude surcharges, taxes, and other charges relating to AT&T's providing Services ("Other Charges"). The County shall not assume responsibility for the payment of any personal property taxes for any materials not owned by the County. The County is a tax exempt No. 29 political subdivision of the State of Ohio [REDACTED] and will provide AT&T with a copy of its valid tax exempt certificate at the time this Agreement becomes effective.

E. **Travel Expenses.** The scope of the Services does not include AT&T travel to Customer's Site(s). Customer must pre-approve all travel expenses in writing.

### 5. WARRANTIES

AT&T will perform Services in a workmanlike manner consistent with the industry standards in the field to which the work pertains, and with any standard set forth in an SOW. OTHER THAN THE FOREGOING, AT&T MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS, INCLUDING THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR ANY WARRANTY ARISING BY USAGE OF TRADE OR COURSE OF DEALING.

### 6. LIMITATIONS OF LIABILITY

(a) TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF AT&T TO CUSTOMER FOR ANY REASON AND UPON ANY CAUSE OF ACTION WHATSOEVER, WHETHER IN CONTRACT, WARRANTY, OR TORT, SHALL BE LIMITED TO PROVEN DIRECT DAMAGES, INCLUDING ATTORNEY'S FEES, NOT TO EXCEED PER CLAIM (OR, IN THE AGGREGATE, ALL CLAIMS ARISING DURING ANY TWELVE-MONTH PERIOD) NOT TO EXCEED FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) FOR THE SERVICES HEREUNDER THAT GAVE RISE TO THE LIABILITY. BOTH PARTIES UNDERSTAND AND ACKNOWLEDGE THAT THE FEES HEREUNDER REFLECT THE ALLOCATION OF RISK AND THE EXCLUSION OF CONSEQUENTIAL DAMAGES IN THIS AGREEMENT, AND THAT THE LOSS OF AT&T'S SCHEDULED FEES UNDER THIS AGREEMENT WOULD CONSTITUTE DIRECT DAMAGES.

(b) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, SAVINGS OR REVENUES OF ANY KIND OR INCREASED COST OF OPERATIONS, WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(c) NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: (I) INTEROPERABILITY, INTERACTION OR INTERCONNECTION PROBLEMS WITH APPLICATIONS, EQUIPMENT, SERVICES OR NETWORKS PROVIDED BY THE OTHER PARTY OR BY THIRD PARTIES; (II) UNAUTHORIZED ACCESS BY A THIRD PARTY OR LOSS OR DESTRUCTION OF THE OTHER PARTY'S APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORK OR SYSTEMS; PROVIDED HOWEVER, TO THE EXTENT ANY SUCH UNAUTHORIZED ACCESS BY A THIRD PARTY OR DESTRUCTION OF APPLICATIONS, CONTENT, DATA PROGRAMS, INFORMATION, NETWORK OR SYSTEMS IS SOLELY AND DIRECTLY CAUSED BY AT&T'S NEGLIGENCE, ERRORS, OR OMISSIONS IN PERFORMING THE SERVICES, AT&T SHALL BE LIABLE TO THE COUNTY FOR PROVEN DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED THE CAP ON DIRECT DAMAGES SET FORTH IN 6(A) ABOVE.

*DRS  
per  
AT&T*

(d) NOTHING IN THIS SECTION LIMITS CUSTOMER'S RESPONSIBILITY FOR THE PAYMENT OF CHARGES DUE AS PROVIDED HEREIN.

## 7. INDEMNIFICATION - INFRINGEMENT

**A. AT&T's Obligations.** AT&T agrees at its expense to defend or settle any third-party claim against Customer, its respective employees and directors, and to pay all compensatory damages that a court may finally award against such parties to the extent the claim alleges that a Service provided to Customer under this Agreement infringes any patent, trademark, copyright, or trade secret, but not in circumstances where the claimed infringement arises out of or results from: (a) Customer's or a User's content; (b) modifications to the Service by Customer, its Affiliates or third parties, or combinations of the Service with any services or products not provided by AT&T; (c) AT&T's adherence to Customer's written requirements; or (d) use of the Service in violation of this Agreement.

**B. Infringing Services.** Whenever AT&T is liable under Section 7A above, AT&T may at its option either procure the right for Customer to continue using, or may replace or modify, the alleged infringing Service so that the Service becomes non-infringing.

**C. Notice and Cooperation.** The party seeking defense or settlement of a third party claim under this Section 7 will notify the other party promptly upon learning of any claim for which defense or settlement may be sought, but failure to do so will have no effect except to the extent the other party is prejudiced thereby. The party seeking defense or settlement will allow the other party to control the defense and settlement of the claim and will reasonably cooperate with the defense; but the defending party will use counsel reasonably experienced in the subject matter at issue, and will not settle a claim without the consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required where relief on the claim is limited to monetary damages that are paid by the defending party under this Section 7.

## 8. TERMINATION

**A. For Uncured Material Breach.** Either Party has the right to terminate this Agreement (including the SOW) for a material breach that remains uncured as of the thirty-first (31<sup>st</sup>) day after the breaching Party has received written notice specifying the breach. If the breach consists of a failure to comply with Laws or is of a nature that cannot be cured, termination will be effective on the date the breaching Party receives the breach notice.

**B. Termination for Convenience.** Either Party shall have the right to terminate this Agreement for Convenience at any time during the Term with sixty (60) calendar days advance written notice to the non-terminating Party.

**C. Termination Charges.** Termination Charges, if any, shall be as specified in an SOW.

**D. Termination Notices.** Termination notices will be sent to the non-terminating Party (parties) identified in Section 11Q.

**E. Annual Appropriations.** AT&T acknowledges and agrees that County's obligations under this Agreement are contingent upon the County Council's appropriating the funds on an annual basis (such annual appropriation fiscal year coinciding with a calendar year) for the continuation of this Agreement for every contract year. County acknowledges and agrees that annual funding for the contracted Terms shall be timely sought prior to the start of every contracted year. In the event the funds necessary for the continuation of this Agreement for any Term are not appropriated or approved, the County will notify AT&T of such occurrence in writing and provide a minimum of sixty (60) days prior written notice of termination for non-appropriation. This Agreement shall thereafter terminate on the last day of the last fiscal period for which appropriations were made. Such termination is made pursuant to and in accordance with the terms of this Agreement and shall not be considered to be a breach or default on the part of the County and shall not result in the County having liability to AT&T or any third party for any penalty, liability or any other expense, except as otherwise defined herein. Termination for non-appropriation of funds shall not be considered County's termination for convenience, unless such Termination is issued within a fiscal year for which funds were previously approved.

## 9. INSURANCE REQUIREMENTS

AT&T shall procure, maintain and pay premiums for the insurance coverage and limits of liability outlined below with respect to products, services, work and/or operations performed in connection with this Agreement:

### A. Mandatory Insurance

(i) Worker's Compensation Insurance as required by the State of Ohio. Such insurance requirement may be met by either purchasing coverage from the Ohio State Insurance Fund or by maintaining Qualified Self-Insurer status as granted by the Ohio Bureau of Workers Compensation (BWC).

For vendors with employees working outside of Ohio, Worker's Compensation Insurance as required by the various state and Federal laws as applicable including Employers' Liability coverage with limits of liability of not less than:

- \$1,000,000 each accident for bodily injury by accident;
- \$1,000,000 each employee for bodily injury by disease;
- \$1,000,000 policy limit for bodily injury by disease.

Such insurance shall be written on the National Council on Compensation Insurance (NCCI) form or its equivalent.

- (ii) Commercial General Liability Insurance with limits of liability of not less than:
  - \$1,000,000 each occurrence bodily injury & property damage;
  - \$1,000,000 personal & advertising injury;
  - \$2,000,000 general aggregate;
  - \$2,000,000 products/completed operations aggregate.

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

- (iii) Business Automobile Liability Insurance covering all owned, non-owned, hired, and leased vehicles. Such insurance shall provide a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident. Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

- (iv) Errors & Omissions Liability Insurance providing coverage for claims arising out of the provision of professional services with a limit of liability of not less than :

- \$3,000,000 per claim;
  - \$3,000,000 aggregate.

Such insurance may be written on either an occurrence or claims-made basis. However, if written on a claims-made basis, the claims-made retroactive date on the policy shall be prior to the commencement of any design, architectural, engineering or other professional activity related to this Contract.

**B. Mandatory Requirements for All Insurance Coverage**

The insurance policies of AT&T required above, with the exception of the Errors & Omissions Insurance, workers compensation, and employer's liability, shall each include the "County of Cuyahoga, Ohio, and its employees" as an Additional Insured and shall contain the following provisions: 1) a waiver of subrogation wherein the insurer(s) waives all rights of recovery against the County; and 2) thirty (30) days prior notice of cancellation or material change.

- (i) All insurance coverage shall be provided by insurance carrier(s) licensed to transact business and write insurance in the state(s) where operations are performed and shall carry a minimum A.M. Best's rating of A minus VII or above.

- (ii) These insurance provisions shall not affect or limit the liability of AT&T stated elsewhere in this Agreement or as provided by law.

- (iii) AT&T shall require its Affiliates to have the insurance coverages and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Agreement. AT&T shall require any and all of its subcontractors while performing hereunder to provide reasonable and prudent coverage and limits.

- (iv) AT&T shall furnish a Worker's Compensation Certificate and Certificate of Insurance evidencing the insurance coverages required herein are in full force and effect. Acceptance of a non-conforming certificate of insurance by County shall not constitute a waiver of any rights of the parties under this Agreement.

**10. INDEMNIFICATION**

**A.** AT&T hereby indemnifies, defends and holds harmless the County and its respective officers, officials, directors, board members, employees, and agents, from and against Damages arising out of third party claims resulting from injury or death of any person or loss of or damage to tangible real or tangible personal property, to the extent that such Damages result from the negligent acts or omissions or willful misconduct of AT&T, or its officers, owners, principals, Affiliates, subcontractors, employees, and agents. The indemnification clause shall survive the completion of the services and the termination of this Agreement. AT&T shall not be liable under this Section for damages caused by service or equipment that is not furnished by AT&T under this Agreement, or by the negligent actions or willful misconduct of County.

**B.** AT&T acknowledges that as an Ohio political subdivision, County does not indemnify any person or entity. AT&T agrees that no provision of this Agreement between AT&T and County may be interpreted to obligate the County to indemnify or defend AT&T or any other party.

**11. MISCELLANEOUS TERMS AND CONDITIONS**

**A. Access.** Subject to compliance with prevailing policies on access, conduct, and security provided to AT&T by County in advance, Customer ensures that AT&T will have Site(s) access reasonably necessary for performance hereunder.

**B. Amendments.** For a modification of this Agreement or any SOW to be legally binding, it must be set forth in a writing signed by each Party.

**C. Assignment.** Neither Party will assign this Agreement without the other Party's prior written consent, which will not be unreasonably withheld or delayed. The assigning Party remains ultimately liable to the non-assigning Party for the performance of the assigned Agreement. An assignment other than in strict compliance with the foregoing is void.

**D. Compliance with Laws.** In its performance of this Agreement, each Party will comply with Laws. Without limiting the generality of the foregoing, each Party will strictly comply in particular with Laws governing (i) the collection, protection against unauthorized disclosure, retention, storage, transmission, and use of personal data including, in particular, the Laws of the European Union member states pursuant to Directive 95/46/EC.

#### **E. Confidentiality**

(1) In the course of performing this Agreement, a Party ("Receiving Party") is likely to receive or have access to Information owned, controlled or disclosed by the other Party ("Disclosing Party").

(2) Unless Information was previously known to the Receiving Party free of any obligation to keep it confidential, has been (or is subsequently) made public by the Disclosing Party or a third party without violating a confidentiality obligation, or is independently developed by the Receiving Party, the Receiving Party will keep it confidential, use it solely to perform this Agreement, and disclose it solely to agents, contractors, employees, and officers who have a need to know such Information.

(3) Neither Party is granted a right or license in the other Party's Information. Each Party will use the same degree of care to prevent disclosure as it uses with its own Information, but not less than reasonable care. Copies of Information in written, graphic or other tangible form will be returned to the Disclosing Party on the earlier of the Disclosing Party's request or on expiration or termination of this Agreement. Copies of Information in electronic form will be destroyed on the earlier of the Disclosing Party's request, or on expiration or termination of this Agreement, in which case the Receiving Party will certify to the Disclosing Party the destruction of all such intangible forms of Information.

#### **F. Construction of Agreement**

(1) This Agreement reflects arm's-length negotiation and each Party's opportunity to review it with legal counsel and other advisors. Each Party acknowledges that it has the experience and sophistication to agree to, interpret, and understand each provision in this Agreement. Accordingly, no ambiguity will be construed against a Party because it may have drafted a provision.

(2) Section and paragraph headings are for reference only. They do not affect the meaning or interpretation of this Agreement. "Include" means "includes, but is not limited to." The singular includes the plural and vice versa. The Parties' respective rights and obligations are subject to modification as the Parties specifically agree in the SOW. A specific obligation is not intended to limit the generality of its less specific obligation. "Days" means calendar days unless stated otherwise.

#### **G. Counterparts**

This Agreement may be executed in multiple counterparts, each of which, when so executed, shall be deemed an original, and all of which shall together constitute one and that same document, and shall be binding on the signatories; and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart. In the event that any signature is delivered by facsimile transmission, by email delivery of a ".pdf" format data file, or by uploading of a ".pdf" format data file on the County's website, such signatures shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

#### **H. County Ethics Requirements**

AT&T agrees to comply with the Vendor Ethics Registration, Vendor Ethics Training, and Registration of all Lobbyists retained by AT&T. AT&T shall consult the Cuyahoga County Office of Inspector General to ensure it is in full compliance with all County Ethics requirements. The Inspector General's website may be found at: <http://inspectorgeneral.cuyahogacounty.us/>.

#### **I. Debarment**

Notwithstanding any provision herein to the contrary, in the performance of any of AT&T's obligations herein, AT&T shall not use or subcontract any individual or entity (including any entity that is owned or controlled by any individual) which is debarred or suspended by the County. AT&T shall provide to the County a list of all proposed Affiliates or subcontractors intended to perform any of the services prior to any engagement or entering into any contract or purchase order with respect to any services to be performed under this Agreement.

#### **J. Findings for Recovery**

AT&T is not subject to an "unresolved" finding for recovery under Ohio Revised Code Section 9.24.

#### **K. Force Majeure**

Neither Party is liable for delayed or failed performance, or for damages, arising out of or relating to fire, explosion, power interruption, earthquake, flood, the elements, strike, embargo, labor dispute, act of civil or military authority, war, act of terrorism, act of God, act or omission of a telecommunications carrier, act of a regulatory or government agency, or any other cause beyond a Party's reasonable control. On the occurrence of a force majeure event, the Parties will negotiate alternatives to fulfilling this Agreement's purposes.

#### **L. Foreign Corporation**

AT&T has been duly organized and is a validly existing corporation under the laws of the State of New York, is in good standing and qualified to do business in the State of Ohio as a foreign corporation, has the full legal authority to enter into this Agreement and perform its obligations hereunder, and has all requisite power, corporate or otherwise, to conduct its business, as presently conducted, and will remain so qualified and in good standing during the term of this Agreement.

#### **M. Governing Law, Venue**

This Agreement is made and shall be governed by the laws of the State of Ohio, United States of America, without regard to the choice of law principles of any jurisdiction. Jurisdiction and venue for disputes not resolved by

negotiation will be deemed proper in the courts of Cuyahoga County, Ohio, or applicable federal court/venue and, accordingly, the Parties consent to the exclusive jurisdiction of the courts there. Notwithstanding the foregoing, nothing in this Agreement is intended, or to be construed, to limit a Party's right to seek injunctive relief for a breach of this Agreement. The United Nations Convention on Contracts for the International Sales of Goods does not apply to this Agreement.

#### N. Integration Clause

This Agreement constitutes the entire agreement between the Parties with respect to the Services. This Agreement supersedes all prior oral and written agreements, communications, and understandings between the Parties with respect to the Services.

#### O. Intellectual Property

(a) Except as otherwise agreed in this Section, intellectual property and proprietary rights arising out of AT&T's performance of Services are and will remain the sole and exclusive property of AT&T. Neither ownership nor title to such property passes to Customer.

(b) Customer owns the copies of reports that AT&T produces and furnishes to Customer ("Reports"). AT&T hereby grants Customer, under AT&T's copyrights, the perpetual, non-exclusive, personal, and non-transferable right to reproduce and modify Reports solely for Customer's internal business purposes. For avoidance of doubt, "internal business purposes" excludes public distribution, resale to third parties, and revenue generation.

(c) AT&T also grants Customer, for the Term, the non-exclusive, personal, and non-transferable right to use items produced and furnished to Customer by AT&T under this Agreement, solely for Customer's own internal business purposes, or for such other purpose as the Parties agree in writing.

(d) Other than the foregoing grants, this Agreement neither grants, nor implies, a right or license in an intellectual property right of AT&T.

#### P. Non-solicitation

While this Agreement is in effect and for one (1) year after its termination, each Party shall not, directly or indirectly, solicit for employment any personnel of the other Party or its subcontractors or agents performing Services unless the Party being solicited has given its prior written consent.

#### Q. Notices

Notices under this Agreement will be in writing and deemed given when delivered by overnight courier to the following address, or to such more recent address of the addressee of which the sending party has received written notice.

County Address	AT&T Corp. Address and Contact	AT&T Branch Sales Contact Information
Street Address: 1255 Euclid Ave., 4th Floor City: Cleveland State / Province: OH Country: US Zip Code: 44115	One AT&T Way Bedminster NJ 07921-0752 Contact: Master Agreement Support Team Email : <a href="mailto:mast@att.com">mast@att.com</a>	Name: Scott Maurer Address: 45 Erieview Plz, RM. 1360 City: Cleveland State / Province: OH Country: US Zip Code: 44114 Fax: (216) 822-8541 Email: <a href="mailto:sc8951@att.com">sc8951@att.com</a> Sales/Branch Mgr: Jenna Streicher SCVP Name: Ron Hoots
County Contact	AT&T Address and Contact	AT&T NI Contact Information
Name: Candice Gibbons Title: Manager IT Telephone: (216) 443-5971 Fax: Email: <a href="mailto:cgibbons@cuyahogacounty.us">cgibbons@cuyahogacounty.us</a>	Name: Title: Telephone: Street Address: City: State / Province: Country: Domestic / Intl / Zip Code:	Name: Cristy Moffitt Address: 220 N. Meridian St., Rm. 690 City: Indianapolis State / Province: IN Country: US Zip Code: 46204 Telephone: 317-908-5824 Email: <a href="mailto:cm2728@att.com">cm2728@att.com</a>
NOTICES TO County	NOTICES TO AT&T	
Name: Candice Gibbons Title: Manager IT Telephone: (216) 443-5971 Fax: Email: <a href="mailto:cgibbons@cuyahogacounty.us">cgibbons@cuyahogacounty.us</a>	AT&T Corp One AT&T Way Bedminster, NJ 07921-0752 U.S.A. Attention: General Attorney	

County's Billing Address is the same as mailing address above.

#### R. Parties' Relationship

The Parties' relationship, including that of their respective Affiliates, is strictly one of independent contractors. Accordingly, Supplier's performance of this Agreement in no event is intended, or to be construed, as an agency, employment, joint venture, or partnership relationship.

#### **S. Public Records**

Notwithstanding the foregoing provisions of this Agreement, AT&T acknowledges that County is a political subdivision in the State of Ohio and as such is subject to the Ohio Revised Code and other law related to the keeping and access to public records, including any and all applicable Sunshine Laws, open meeting requirements, and retention schedules effecting any and all manner of communication with the County and any and all documents in any format or media. In the event AT&T considers any portion of any record provided, or to be provided, to the County to be exempt from the Public Records Act under Ohio law, through a trade secret exemption or otherwise, AT&T shall conspicuously identify each such portion as "CONFIDENTIAL: TRADE SECRET" OR "EXEMPT FROM DISCLOSURE" and shall specifically state the legal reason, including citation to the applicable section under the Ohio Public Records Act. County agrees to withhold the information marked by AT&T as "CONFIDENTIAL: TRADE SECRET" OR "EXEMPT FROM DISCLOSURE" from public information, and AT&T agrees to defend and indemnify the County from all costs and expenses, including reasonable attorneys' fees, in action or liability arising under the Public Records Act, with respect to such withholding.

#### **T. Remedies**

Except where specified otherwise, remedies under this Agreement are cumulative, not sole and exclusive. Neither Party will retain the benefit of inconsistent remedies.

#### **U. Severability**

If a provision is held to be illegal, invalid, or unenforceable, it will be severed and, to the extent that doing so does not materially and adversely affect either Party's economic rationale for entering into this Agreement, the remaining provisions will remain in force.

**V. Affiliates or Subcontractors.** AT&T may subcontract to an AT&T Affiliate or a third party work to be performed under this Agreement but will remain financially responsible for the performance of such obligations.

#### **W. Survival**

Provisions on compliance with Laws, Indemnification, Information, Infringement, Publicity, and Warranties will survive this Agreement.

**X. Statute of Limitations.** Any legal action arising in connection with this Agreement must be filed within eight (8) years after the cause of action accrues or it will be deemed time-barred and waived. The Parties waive any statute of limitations to the contrary.

#### **Y. Third-Party Beneficiary**

No provision of this Agreement will inure to the benefit of a third person (including the public at large) so as to constitute such person a third-party beneficiary under this Agreement, or otherwise give rise to a cause of action in any person not a Party.

#### **Z. Trademarks**

Neither Party will display or use, in advertising or otherwise, any trade name, logo, trademark, service mark, or other indicia of origin of the other Party without that Party's prior written consent, which consent may be revoked at any time by notice.

#### **AA. Waiver**

For the waiver of a right or condition for the benefit of a Party to be effective, it must be given in writing by the waiving Party. No course of dealings or failure of a Party to strictly enforce a term, right or condition of this Agreement will be construed as a general waiver or relinquishment of that term, right or condition. A Party's waiver of a default will not be deemed a waiver of any other default.

#### **BB. Customer's Cooperation**

In the event a Service under this Agreement is provided over or accesses the Internet, Customer will ensure that Customer and Users comply with the AUP.

#### **CC. ELECTRONIC SIGNATURE**

AT&T, its officers, employees, subcontractors, subgrantees, agents or assigns, agree to conduct this transaction by electronic means, and that the electronic signatures affixed by the County to all documents requiring County signatures shall have the same legal effect as if that signature was manually affixed to a paper version of the document. AT&T also agrees on behalf of the aforementioned entity and persons, to be bound by the provisions of chapters 304 and 1306 of the Ohio revised code as they pertain to Electronic Transactions, and to comply with the electronic signature policy of County.

IN WITNESS WHEREOF, the County and AT&T have each caused this Agreement to be signed and delivered by its duly authorized representative as of the date first written.

ELECTRONIC SIGNATURE/PRESIGN

AT&T CORP

Eva P. Smith  
Authorized Signature  
Eva P. Smith  
Printed Name  
8/29/2013  
Title

COUNTY OF CUYAHOGA, OHIO

BY: Edward FitzGerald, County Executive

Edward FitzGerald, County Executive

Edward FitzGerald  
The legal form and correctness of this Agreement is  
hereby approved: 2013-10-11 17:29:21  
Cuyahoga County Law Department Ohio  
Majeed G. Makhoul, Director of Law

By: \_\_\_\_\_  
Assistant Director of Law

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



## EXHIBIT 1: STATEMENT OF WORK

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### 1. Introduction

This Statement of Work ("SOW") is attached to the Agreement and made a part thereof upon execution. The Parties to this Statement of Work ("SOW") are **AT&T Corp.** ("AT&T") and the County of **Cuyahoga, Ohio**, on behalf of the Department of Information Technology ("Customer").

AT&T reserves the right to withdraw this SOW or modify the prices and any other terms and conditions, including, but not limited to, any section of this SOW (i) if the SOW is not signed by Customer and AT&T by 10/1/2013, and/or (ii) the engagement does not commence within thirty (30) calendar days of the Effective Date.

### 2. Scope of Work

#### 2.1 Services

AT&T will provide Hosted Exchange Services ("HES" or "Solution") to Customer located at 1255 Euclid Avenue, Cleveland, OH. This SOW does not include a 'trial' period.

**Description:** AT&T's Hosted Exchange Service provides Mail and Collaboration applications in a 'private cloud' environment. The Solution provides a fault tolerant solution with high availability and redundancy and will provide scalability, control and visibility while being fully managed 7x24x36 by AT&T in Class 4 Data Centers with US Based Service Desk support.

#### Tier 1 Architecture

- Fully Managed 7x24x365 Private Cloud Infrastructure With Patch Management
- Single Tenant Dedicated VM Architecture
- Same Domain / Same Forest Configuration with Cross Domain Configuration Option
- Class 4, SAS 70 Type II Audited AT&T Data Centers with Full Fault Tolerance
- Completely Mirrored Environment. Fully Load Balanced
- High Availability (N+1) Build With Fault Tolerant Option
- Cisco UCS Servers and Compellent SAN

#### Core Exchange Platform Services:

- Microsoft 2010 Exchange Server
- Anti Spam, Anti Virus
- Archiving & E-Discovery
- Native Active Sync Capabilities
- Hosted Active Directory Integration
- Hosted BlackBerry Express
- Hosted VM Server for Customer Provided Licenses
- Four (4) business hours of Customer Administrative Training

#### Migration Services; Support

- T3 SPOC Support: Back-Ups: Nightly Incremental, Weekly Complete
- Disaster Recovery with defined RPO's and RTO's
- In-Country 7x24x365 Full Environment and Application Management
- In-Country 7x24x365 Service Desk & T2/T3 Support
- Comprehensive Transition and Migration Support
- Centrally Governed, In-House Senior Network, Exchange, AD, Security Specialists
- Security & Compliance

#### 2.2 SOW Term

This SOW shall have a term of thirty-six (36) months ("Term") starting on the Effective Date of the Agreement and subject to Section 8 of the Agreement.

#### 2.3 Effect of Termination of SOW

Section 8 of the Agreement shall apply to this SOW. If Customer terminates the Agreement for any reason, this SOW shall also terminate. If Customer terminates for Customer's convenience, or withdrawal of funding in accordance with Section 8E of the Agreement, at any time during the term of the Agreement, Customer shall be responsible for a cancellation fee equal to the unpaid balance of all non-recurring costs, and all monthly fees incurred for the services provided up to effective date of Termination. Under no circumstance whatsoever will fees be waived. AT&T shall return Customer's data within three (3) calendar days after final termination payment is received.

### 3. AT&T Responsibilities

In addition to the Services outlined in Section 2.1, AT&T will be responsible for executing the following activities. Activities not expressly included in this SOW are outside the scope.

- (a) Assign a designated AT&T Project Manager ("AT&T PM") to interface directly with Customer Project Manager and serve as the primary interface to Customer organization.

- (b) Conduct a formal project kick-off meeting and review the contract and associated Services.
- (c) Develop, manage and track project schedules and all Change Control events.
- (d) Develop and maintain any contact list, communication plan as well as track and monitor prioritized action items and issues lists as needed.
- (e) Oversee the entire Customer opportunity from start to finish, and work with Customer's staff to custom plan, integrate, implement and support the virtual transition.
- (f) Support Processes and Procedure development, including escalation procedures
- (g) Support Scoping and Change Management
- (h) Project or Transition plan showing timelines, contacts and technicians to be used in electronic format.
- (i) Milestones and Objectives
- (j) Final Transition Testing and Acceptance
- (k) Detailed Migration Plan must include all existing Groupwise data delivered with signed Agreement and after initial planning and discovery meetings
- (l) AT&T will test connectivity to end Customer network
- (m) AT&T will confirm client side visibility to the host
- (n) Provide Cooperative External Testing of Each Application with Customer
- (o) Properly complete the set up of the CORE level
- (p) Properly complete the provisioning responsibilities per the VDI build
- (q) Properly provide support on a 7x24x365 basis.

### 3.1 Service Level Agreement ("SLAs").

AT&T provides the following for the Services performed herein described:

Service Level	Target
Global availability of applications for the end-users	99.99%
Backup RPO	1 hour
Backup RTO	4 hours
Authorized planned outage	Max 1 per year with maximum 6 hours of unavailability
Time to receive an email inside the company once it has been sent	Maximum 3min, 99% of the time
Time to create a new user account	1 day after the requested time
Time to restore a user account	1 day after the requested time
Time to create a new distribution list	1 day after the requested time
Time to restore a distribution list	1 day after the requested time
Time to restore a mailbox	1 day after the requested time

In the event that Customer reports to AT&T, in writing with specific information regarding any failure to achieve a Target, that AT&T has not met one or more of the above listed Targets in any calendar month, AT&T shall (after verifying Customer's information) provide a credit to Customer's invoice (quarterly, in arrears) in a sum equal to one percent (1%) of the monthly recurring charges for the month in which the Target was not met, in the aggregate, for all such Target(s) not met. Such credit payment(s) shall be Customer's sole remedy for the violation(s) of the SLA in that month but shall not affect Customer's other remedies for other matters under the Agreement.

### 3.2 Service Hours

The Services provided hereunder shall be performed Monday through Friday, 9:00 a.m. to 5:00 p.m., local time, excluding designated AT&T holidays ("Normal Business Hours"), unless otherwise noted herein.

AT&T Designated Holiday	Date Observed
New Year's Day	January 1
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	4th Friday in November
Christmas Day	December 25

Hourly rates for Services provided outside of Normal Business hours are set forth below; AT&T will invoice Customer at this rate for any such Services requested in writing by Customer.

## 4. Customer Responsibilities

To manage the activities outlined herein on time and within the pricing provided, Customer assigned roles and responsibilities must be fulfilled effectively. Customer is responsible for the following:

- (a) Assign a Single Point of Contact ("SPOC") as the primary interface for the AT&T Project Manager to work with during the Project.
- (b) Coordinate appropriate personnel for conference calls, interviews or to provide information as reasonably requested and applicable by AT&T.
- (c) Participate in meetings and arrange for other relevant business unit personnel be reasonably available for such meetings.

- (d) Keep AT&T informed of any information or changes, which may affect AT&T's performance of Services or require a change request in the scope.
- (e) Provide AT&T with reasonable access to the Customer Site during Normal Business Hours, as needed, and shall provide office space to include desks, chairs, as well as access to printers, copiers and phone lines while on-site at no charge. In addition, AT&T may conduct the research and other work from a remote location.
- (f) Provide local Site Contact name, telephone number, address, and email for both a primary and backup Local Site Contact to facilitate local scheduling issues, and other Site-specific details. This information is to be provided to the AT&T Project Manager for each Site.
- (g) Gain access for AT&T to sites that are owned/controlled by third parties.
- (h) Provide AT&T with login and password information to all equipment related to the Services provided hereunder, including both basic access and modification access
- (i) Resume responsibility for the network infrastructure upon completion of the Services provided herein.
- (j) Customer is responsible for the integrity of the data migrated. Any loss of data due to reasons outside of the providers control is not the responsibility of the provider. Additional remediation steps required to manually recover data or re-import data to achieve a higher integrity rate at the request of Customer is billable at the Migration Management fee of \$110.00 per hour. Further, any migration beta tests or reporting required by Customer and not specifically identified in the Migration support definitions may increase the costs of the migration. Those costs will be identified during the migration and transition meeting held with Customer prior to onset of the migration tasks.
- (k) Customer must provide AT&T connection to end Customer-supplied VPN equipment or a leased line connection to the AT&Ts Primary and DR Data Centers.
- (l) End Customer will provide a resource to work with AT&T to establish VPN or network connectivity to end Customer's network as needed. AT&T will test connectivity and establish a cut over time with end Customer during the kick off meeting that is mutually agreeable.

## **5. Project Governance**

### **5.1 Change Control Process**

Either Party must submit change requests to contractual documents in writing via the sample at Appendix A to this SOW. The party requesting the change must submit a written request to the other party and the receiving party shall issue a written response within five (5) business days of the receipt of the request, including whether the receiving party accepts or rejects the request and/or any changes to the Terms and Conditions of this SOW. Once agreed, both parties must execute the document in Appendix A and a written amendment to the Agreement when the change results in a cost increase or a change in scope of the Agreement.

### **5.2 Acceptance/Approval**

AT&T shall validate the process steps to achieve Acceptance of the Services in consultation with Customer during the start-up (kickoff) period for the Project. During this process, the Acceptance Checklist (sample at **Appendix C**), will be reviewed with Customer and updated accordingly. AT&T shall present the Acceptance Checklist upon completion of the work, and all Acceptance Criteria shall be based upon testing of the Application Servers during the Pre-Steady-State period, and connectivity from Customer's site to the host has been tested and confirmed. Customer will indicate acceptance of the Service(s) by signing the form within five (5) business days of completion.. Should Customer not accept the Services, Customer shall provide AT&T with a detailed, written explanation and reasons for not so accepting within five (5) business days of completion. If Customer does not so notify AT&T within such five (5) business day period, Services shall be deemed Accepted. AT&T shall address Customer's issue(s) within five (5) business days after the receipt of such notice, and will then resubmit the Acceptance Checklist for Customer's signature. Such time to address any quality of service or re-work issues(s) may be extended by mutual consent.

## 6. Schedule of Charges and Fees

6.1 AT&T shall provide the Services for the Charges and Fees stated below. Fees are based upon a thirty-six (36) month Term, commencing on the Effective Date.

Non-Recurring Charges ("NRC") and Fees	Qty	Total Cost
Archiving, Set Up	1	<b>Bundled</b>
Exchange Mail Server Setup Fee	1	
SHMS Standard Anti Spam/Antivirus Server Set Up	1	
Active Directory Trust Setup	1	
Blackberry Express Server Setup	1	
Connector Lotus or Group Wise to Exchange Direct Mailbox Migration Set Up, not to exceed 3,800 seats	3,800	
Co-Existence Lotus or Group Wise to Exchange Set Up, not to exceed 3,800 seats	3,800	
Additional Customized Migration Support, not to exceed 40 hours	40	
<b>Total of Non Recurring Charges</b>		<b>\$83,610.00</b>

Monthly Recurring Charges ("MRC") and Fees	Qty	Monthly Cost
Archiving, not to exceed aggregate Mail disc space	4,096	<b>Bundled</b>
Exchange Enterprise EA & SA, not to exceed 3,800 seats	3,800	
Hosted Mail Anti Spam/Anti-Virus, not to exceed 3,800 seats	3,800	
1Mb Monthly Access Fee to Host Standard VPN	5	
SQL Standard (processor)	1	
Managed Blackberry Server - Client Provided CAL VM	1	
Aggregate Mail Disc Space (1.07Gb per seat)	4,096	
<b>Cost Per Month</b>		<b>\$7,119.35*</b>
<b>Estimated Monthly Recurring Aggregate Price Per Seat (based on 3800 Seats)</b>		<b>\$1.87 (for info only)</b>
<b>Estimated 36 Month Total MRC (based on 3800 Seats)</b>		<b>\$256,296.60</b>
<b>Estimated 36 Month Total Contract Value (includes NRC based on 3800 Seats)</b>		<b>\$339,906.60</b>

These Charges and Fees include all the Services listed in Sections 2.1 and 3 and based upon initial deployment of 3,800. Additional seats or storage may be purchased via Change Order. \*MRC is fixed until seats exceed 3,800..

## 6.2 Additional Pricing Terms and Conditions

- Defined Scope. Pricing is based on the currently defined Scope of Work. Any additions or changes to this SOW will necessitate changes in pricing and a written contract amendment. Pricing herein assumes no project delays will occur that would require AT&T to stop work. AT&T will not be held financially responsible for project delays outside of its control.
- Invoicing. AT&T will invoice the NRC charges, in arrears, when the NRC charges are incurred by Customer. AT&T will invoice MRC charges for monthly Services monthly, and any additional NRC charges incurred during the previous month, in accordance with the Agreement. See also SOW Section 2.3 previous.
- Time and Material ("T&M") Rate. In the event that the scope of work changes from this SOW or AT&T is requested to perform Services outside of Normal Business Hours, AT&T will bill Customer at a T&M rate of two-hundred fifty dollars (\$250.00) per hour per AT&T Consultant for the additional time spent on the change requests. All such out of scope matters will be handled via the Change Control process outlined herein.

## 7. Engagement Assumptions

This SOW is based on the following assumptions. If any of these assumptions are found to be inaccurate or invalid, AT&T shall provide Customer with the changes to the scope, tasks, deliverables or terms and conditions of this SOW via the Change Control Process described in this SOW.

- Customer will provide AT&T with requested information in a timely manner, and takes full responsibility and liability for the accuracy of all information supplied to AT&T by Customer and which AT&T relies upon in its performance hereunder.
- Customer will coordinate the project kick-off with the designated AT&T Project Manager and confirm all required attendees are present as required.
- During this engagement, Customer will provide access to personnel who participated in meetings to resolve questions or issues as they arise.

## 8. Migration Services

- AT&T will provide a customized and tailored approach towards supporting Transition and Migration to the hosted solution. Migration Services include preparation, environment set up, data migration, risk management, and integrity testing in 4 phases: Transition Support, Migration Support, Pre-Steady State Support and Post-Steady State Support.
- AT&T works closely with Customer to understand and reach mutual agreement Customer's network, access and connectivity requirements and preferred migration timelines, then finalizes the Migration Plan to meet those specific requirements and preferences. During the initial Customer Transition meetings, the discovery process

uncovers specific Customer/host migration peer to peer contacts, technical requirements, milestones and predecessors.

- (c) Transition Support: During the Transition phase of the project, and led by a SPOC and Project Manager, AT&T provides a technical team to include the following resources: a Senior Network Engineer, a Senior Security Engineer, a Senior VM and Host Engineer, and a Senior Mail/Migration Engineer. By providing a teaming approach, AT&T seeks to identify peer-to-peer interaction on Customer side to efficiently perform the 'Transition' Phase of the project.
- (d) The Transition Phase of the project is intended to prepare for Migration. During the Transition Phase, teams are identified, topology discovery is performed and custom dependencies, mutually agreed milestones and target dates are determined.
- (e) The following outline describes at a high level the Transition responsibilities:
  - (1) AT&T Internal Review & Transition Preparation
  - (2) AT&T / Client Review
    - Network & Firewall Configuration Review
    - Circuit Connectivity Requirements & Scheduling
    - Profiling of Users
    - Grouping Mail Users
    - Active Directory / Authentication Trust
    - Timelines and Cut Over Objectives
    - Predecessors and Dependencies Review
    - Cross-Domain/Intra-Domain Configuration Confirmation
  - (3) Internal Environment Preparation
    - Mail Servers Set Up
    - Spam Virus Server Set Up
    - Archiving Server Set Up
    - Active Directory Trust Set Up & Testing
    - Alternate VM Server Set Up as required
    - Connectivity Preparation
  - (4) Co-Existence Set Up: Co-existence is the recommended method to migrate users 'over the wire' and have both servers operating in a production environment at the same time.
    - Connect 'Hooks' from Host to Customer GroupWise Environment
    - Test Connectivity between Host and Customer environment with Customer Administrator
  - (5) Administrative Access Knowledge Transfer with Customer

Migration Support: The Migration Phase addresses the tactical migration of data. Migration is broken into logical methodologies including Pre-Deployment Assessments, Test User Migration & Confirmation, Data Integrity Assessments, and segmented User Migration (pre-defined user groups) and Testing.

The Migration process is accomplished in a pre-planned method where subsets of users are moved to the host and tested to confirm data integrity. Consistent communication between the AT&Ts PM and migration team and Customer's Administrator(s) are provided with each subset of users and subsequent test. Reports are delivered with each milestone as defined below.

- a. Pre-Deployment Data integrity Assessment as required
- b. Confirmation of User Groups
- c. Test Data Migration
  - Migrate Test User Group – Typically Admins, IT Staff
  - Test Data Integrity Assessment
  - Customer Verification of Data
  - AT&T VM Replication Testing
- d. Migration of User Group 1:
  - Migration of Data
  - Testing of Data Integrity
  - Customer Verification of Data Accessibility
  - Manual Remediation as Required
- e. Migration of User Group 2.
- f. MX Records Swing
  - MX Records follow the bulk of mail

Pre-Steady State Tuning & Knowledge Transfer: Pre-Steady State Tuning is defined by a time period of thirty (30) calendar days after final migrated users base. During this time, the host is in production, and there may be fine-tuning of the hosted environment and training to best prepare user and administrators to operate comfortably in the new environment.

- a. User Access Questions
- b. Smart Phone Access Questions
- c. Anti-Spam Settings Tuning
- d. Customer Administrative Access
  - Mail
  - AS/AV
  - Archive
- e. User Knowledge Transfer – GroupWise to Exchange
  - Web Ex Options
  - Onsite Options
  - Leave Behind – How To Documentation
- f. Administrative Knowledge Transfer - GroupWise to Exchange
  - Web Ex Options; Onsite Option

## 9. Special Terms and Conditions, Additional Charges and Fees

Service Desk and TAC Pricing Assumptions:

### TAC ("Technical Support Center") Support Calls:

- Complimentary monthly TAC support minutes for all Tier 1 and/or Customer remediation are provided in an amount equal to 2.5% of the total numbers of users (as established at the beginning of each month) times 10 minutes per user. Additional minutes above the complimentary monthly TAC support minutes will incur a per minute charge at the rate of \$2.50 per minute
- Pricing assumes MS Exchange Standard.
- Pricing assumes BlackBerry Servers are VM's and can be moved to the host – no licensing fees associated with the Blackberry services.
- Other Blackberry options can be provided at Customer's request.
- Patch and Version Upgrades**
- As available, all fees associated with managing minor version upgrades are covered under the user MRC.
- Fees associated with Customer electing to upgrade to a new Major OS Version will be billable and estimated on a case-by-case basis.
- User Interference**
- All fees associated with remediating Customer administrative errors or mistakes will be billable at the rate of \$110.00 per hour, with an initial minimum two (2) hour billed.

### Error, Incident, Priority or Severity Level Descriptions, Response, and Target Response Times

AT&T shall provide the Services described below in addition to any warranty or Maintenance obligations, if (i) Software fails to operate in conformance with the Specifications, (ii) a Service is not provided in conformance with a Specification, or (iii) if a specified Error, Incident, Priority, or Severity occurs affecting the Software or the access to, or provision of, the Software as a Service that AT&T has provided. Incidents are generated through two primary mechanisms: AT&T monitoring service platform and calls to the Service Desk. The Service Desk is available to respond to calls from Customer's users and IT staff. Alarms generated through the monitoring Service are filtered and correlated to determine the severity of the events. Based on the severity of the alarm, an Incident is created within the Service Desk workflow and all subsequent work tasks are tracked within the Incident ticket. Where the levels of Error, Incident, Priority or Severity are indicated (e.g., Level 1, 2, or 3), AT&T shall respond and perform as follows:

**Severity Level Response Times Table**

Error Severity Level	Severity Level Description	Response	Target Time for Response]
<b>DISASTER</b>	<b>DISASTER RECOVERY</b>	RTO: (Time it takes to recover Customer operations upon a Data Center Disaster)  RPO: (Amount of time of potential data loss between last synchronization and disaster event)	48 Hours  15 Minutes
<b>1</b>	<b>FATAL:</b> Reported problems preventing all useful work from being done or potential data loss or corruption, or Software functionality is inoperative; inability to use has a critical impact to the Customer's operations.	Acknowledgment Restoration - Work Around, temporary fix Escalation Resolution - Final fix, update, or new release Communications	5 Minutes* 30 Minutes 15 Minutes Approximately 4 hours  Every 10 Minutes

Error Severity Level	Severity Level Description	Response	Target Time for Response]
2	<b>SEVERE IMPACT:</b> Problems disable major functions required to do productive work or Software is partially inoperative and is considered as severely restrictive the Customer.	Acknowledgment Restoration - Work Around, temporary fix Escalation Resolution - Final fix, update, or new release Communications	Less than 15 Minutes 1 hour Less than 30 Minutes Approximately less than 1 day  Every 30 Minutes
3	<b>DEGRADED OPERATIONS:</b> Reported problems disabling specific non-essential functions; Error condition is not critical to continuing operation.	Acknowledgment Restoration - Work Around, temporary fix Escalation Resolution - Final fix, update, or new release Communications	Less than 15 Minutes Less than 2 Hours Less than 4 Hours Approximately less than 2 Days Daily
4	<b>MINIMAL IMPACT:</b> Any deviation from Specifications not otherwise included in Severity 1, 2, or 3 categories.	Acknowledgment Restoration - Work Around, temporary fix Escalation  Resolution - Final fix, update, or new release Communications	Within 4 Hours N/A As directed and agreed by AT&T As directed and agreed by AT&T As directed and agreed by AT&T

*"Where AT&T does not maintain a Severity Level 1 help desk or the applicable Customer does not utilize the AT&T Severity Level 1 help desk, the time for AT&T to acknowledge notification of such Error condition shall be expanded to 30 minutes.*

AT&T will provide Severity Level 1 (L1), Level 2 (L2), Level 3 (L3), and Level 4 (L4) support. AT&T will have trained personnel available 24/7 to address any support requirement.

#### Support Level Definitions

##### "Level 1" – Help Desk

User operating issues, password reset, user administration, end user training, application functionality questions, assisting user in know-how queries, standard troubleshooting procedures, triage (determination that the issue is not related to Customer infrastructure, servers, network, or other dependent systems).

##### "Level 2" –Problem/Change Management

Performing Software configuration, deployment, security wipes; patches reporting; administrative support, lock down policies administration, policies deployment, standard troubleshooting procedures, Software issues not resolved at Level 1, Level 1 training support.

##### "Level 3" – Application Problem Management

Software break-fix; developing temporary workarounds for Software problems

##### "Level 4" – Minimal Impact

Defined in the table above.

## **APPENDIX A: END USER LICENSE TERMS (“EULA” – MICROSOFT)**

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## APPENDIX B SAMPLE CHANGE REQUEST FORM

Type of Request:	
Initiator (Company):	
Change Request Received by:	
Price Impact:	
AT&T Additional Resources Req'd:	

Task Description:
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Other information related to Change:
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Impact of Change <i>Provide a description of the impact of the change (increase in duration, delay in start, cut-over date change, added dependency, additional resources required change to design, change to baseline solution, other).</i>
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**AGREED and ACCEPTED:**  
**CUSTOMER:**

By: \_\_\_\_\_  
 (Authorized Agent or Representative)

(Typed or Printed Name)

(Title)

(Date)

**AGREED and ACCEPTED:**  
**AT&T**

By: \_\_\_\_\_  
 (Authorized Agent or Representative)

(Typed or Printed Name)

(Title)

(Date)

## APPENDIX C: SAMPLE ACCEPTANCE FORM

LIST OF ACTIVITIES	Applicable	Completion date	Initial
<u>Customer Responsibilities</u>	√		
	√		
<u>AT&amp;T Responsibilities</u>	√		
	√		
	√		
	√		
	√		
	√		
<u>Delivery &amp; Checkout</u>	√		
	√		
	√		

**Customer Acceptance:**

By: \_\_\_\_\_  
 (Authorized Representative)

(Typed or Printed Name)

(Title)

(Date)

**AT&T Acknowledgement:**

By: \_\_\_\_\_  
 (Authorized Representative)

(Typed or Printed Name)

(Title)

(Date)