

CONTRACT NO. 473-11-00193

**THE PUBLIC UTILITY COMMISSION OF TEXAS
AND
SPRINT COMMUNICATIONS COMPANY, L.P.**

The parties to this contract are the Public Utility Commission of Texas, a duly organized agency of the state of Texas with its office located at 1701 N. Congress Ave., Austin, TX 78701 and Sprint Communications Company, L.P. ("Sprint"), a Delaware limited partnership with offices at 12524 Sunrise Valley Drive, Reston, Virginia 20196.

Article 1. DEFINITIONS

When used in this Agreement, the following terms shall have the following meanings:

1.1 "Public Utility Commission," "PUCT," "Commission," or "Customer" means the Public Utility Commission of Texas acting through its executive director and the agency's designated Contract Administrator.

1.2 "Contractor" includes "Sprint" and any successors, heirs, and assigns.

1.3 "Services" or Telecommunications Relay Service (TRS) means any and all services performed and any and all goods and products delivered by Contractor as specified in Attachments A, B, and E - G of RFP 473-11-000193 (RFP) and Sprint's proposal dated April 25, 2011 (Proposal) in response to that RFP, all of which are incorporated by reference into this Agreement.

Article 2. COMPENSATION

2.1 Compensation. Contractor agrees to provide all services (including labor, expenses, and any other services) as follows:

Mandatory Pricing: \$1.39 per conversation minute

Mandatory-Optional Pricing: \$1.79 per conversation minute

The Texas Universal Service Fund (TUSF), established in Texas Utilities Code 56.001 et seq., is the only source of funds for payment to the Contractor.

If Contractor believes that changes in the scope of services to be performed will require Contractor to increase its fee, it must request the PUCT's written authorization to increase its fee. The Contractor must document the changes in the scope of services and why they will require additional effort. The Commission must approve the increase in fee by written amendment to this Agreement before the Contractor performs any services or may invoice the increased fee.

2.2 Payment Process. Contractor will submit a monthly statement for services or invoice to the PUCT no later than the 25th day of the month after the month that services were performed. On the statement or invoice, Contractor must include a statement that the invoice accurately describes the services performed and that the services were performed in compliance with this Agreement.

The statement or invoice must include the vendor identification number issued by the Texas Comptroller or Contractor's federal taxpayer identification number, a description of the services provided, and the name and division of the Agency Contract Administrator. Contractor shall

submit the statement or invoice to the PUCT as follows:

ATTN: Payables
Fiscal and Information Services
Public Utility Commission of Texas
P. O. Box 13326
Austin, TX 78711-3326

If the PUCT finds the invoice to be in order, it will authorize the TUSF Administrator to make payment to Sprint from the TUSF within a reasonable timeframe. If the invoice is not found to be in order, the PUCT shall notify Contractor of the reason for rejection and allow Contractor to correct and resubmit the invoice.

2.3 Payments made to Subcontractors. Contractor shall pay any subcontractor hereunder the appropriate share of payments received not later than the 10th day after the date Contractor receives the payment. The subcontractor's payment shall be overdue on the 11th day after the date Contractor receives the payment. The PUCT must approve Contractor's use of any subcontractor before Contractor engages the subcontractor (see Sec. 5.1).

2.4 Records. Contractor and its subcontractors shall maintain records and books of account relating to services provided under this Agreement. Such records and books shall be made available to the PUCT, its designee, or the Texas State Auditor's Office for review upon reasonable notice during Contractor's normal business hours for a period of at least four years after the end of the term of the Agreement. Due to the highly sensitive and proprietary nature of Sprint's records, any third party auditor acting on behalf of the PUCT shall be subject to prior approval by Sprint and may be required at Sprint's sole discretion to execute Sprint's standard Non-Disclosure Agreement prior to examining, inspecting, copying or auditing Sprint's records.

2.5 Sole Compensation. Payments under this Article are Contractor's sole compensation under this Agreement. The PUCT will not reimburse any costs incurred by Contractor before execution of a written amendment in accordance with Article 7 from the TUSF or any other funding source. Contractor shall not incur expenses with the expectation that the PUCT or any other agency of the state of Texas will directly pay the expense to a third-Party vendor irrespective of the reason for incurring those expenses.

Article 3. CONTRACT ADMINISTRATION

3.1 PUCT Contract Administration. The PUCT designates Eileen Alter to serve as its Contract Administrator. Contractor acknowledges that the PUCT Contract Administrator has no authority to amend this Agreement on behalf of the PUCT, except as expressly provided herein. Contractor further acknowledges that such authority is exclusively held by the Commission or its authorized designee, Executive Director Brian H. Lloyd.

3.2 Contractor Contract Administration. Contractor designates its Contract Administrator as follows:

Michaela Clairmonte
Manager, Contracts Negotiations & Management
12502 Sunrise Valley Drive, MS: VARESA0208
Reston, VA 20196
Fax: 703-433-8798

Scott Demarest
Sprint Relay
1321 Rutherford Lane
Austin, TX 78753
Fax: 512-873-1075

3.3 Reporting. Contractor shall respond directly to the PUCT Contract Administrator and shall perform all activities in accordance with reasonable instructions, directions, requests, rules and regulations issued during the term of this Agreement as conveyed to Contractor by the PUCT Contract Administrator.

3.4 Cooperation. The Parties' Contract Administrators shall handle all communications between them in a timely and cooperative manner. The Parties shall timely notify each other by email or other written communication of any change in designee or contact information.

3.5 Inquiries and Prompt Referral. Contractor will promptly refer all inquiries regarding this Agreement received from state legislators, other public officials, the media, or non-Parties to the PUCT Contract Administrator.

Article 4. REPORTS, RECORDS, AND CLARIFICATIONS

4.1 Written Reports. Contractor will provide written reports to the PUCT in the form and with the frequency specified in Attachment G or as agreed to between the parties.

4.2 Complaint Information. Contractor will keep complaint and resolution information as required by Section 4.8 of this Agreement. Contractor will treat complaint information as confidential information, and unless required by the Texas Public Information Act, will release such information only to the PUCT or its representative. In the monthly complaint resolution report, Contractor shall provide information showing the action taken to resolve each complaint. Annually, Contractor shall submit a complete set of complaint resolution documents to the PUCT, which will incorporate these documents into its annual report to the Federal Communications Commission (FCC). The PUCT will inform Contractor when the information is required.

4.3 Reporting FCC Rules and Orders. Contractor will report any change in FCC rules and orders regarding TRS. The report is due no later than 30 days after the change. The report will explain how Contractor will comply with the new rule or order.

4.4 Clarification to FCC Orders. Pursuant to FCC 11-118, Docket No. 10-51 ("Order"), there has been a change in the reimbursement policy in all internet-based relay services that impacts the availability of VRS through Sprint under this Agreement. Because Sprint will not be able to provide all of the internet-based services, the following alternative service solution for Speech-to-Speech wireless access, provided in Section 4.5, will be provided to the PUCT at no additional charge.

4.5 Wireless Access to Speech-To-Speech (*787). "STS" is defined as a "short-code" for wireless users to dial *787 from anywhere within Texas and be routed directly to a Relay Texas STS Agent. If the Texas customer travels to another state, the call will be routed to that state's STS service. If Sprint is not the provider in that state, the call will be routed to the Sprint STS interstate service.

4.6 Captioning Center. The parties acknowledge that the call center located in the state of Texas to provide Captioning Telephone Service or CapTel Technology ("Captioning Center") will be implemented no later than 12 months following the Effective Date of the Agreement.

Sprint will make commercially reasonable efforts to have the Captioning Center implemented within six months from the Effective Date ("Six-Month Period). Due to the potential of the Captioning Center implementation being delayed, the PUCT has agreed to allow up to two (2) three-month extensions following the Six-Month Period ("Extension Period(s)"). In the event Sprint needs to utilize one or both of the Extension Periods, the CapTel price per minute will be decreased by \$0.04 per minute only for the duration of the Extension Period(s).

4.7 Outage Reports. Reporting of service disruptions as required in Attachment G includes captioned telephone service and any other services provided by Contractor.

4.8 Annual Report. Contractor will prepare an annual report describing TRS performance and usage, including but not limited to a report of TRS expenses payable by the PUCT, revenues, operations, and traffic patterns. The report is due January 1st for each preceding year of the Agreement. Contractor will submit a draft report on or before October 15th. The PUCT will review and provide comments on the draft report. The PUCT acknowledges that if it fails to provide Contractor with comments by November 15th, Sprint may be unable to meet the January 1st deadline.

4.9 Audit Reports. If an audit report discloses discrepancies or irregularities in TRS services or operations, Contractor will have a reasonable period of review, response, and opportunity for verification. Contractor will make agreed upon modifications to its operations and adjust its billing, if appropriate, as soon as practicable, but no later than 60 days from the issuance of the audit report.

4.10 Other Reports. Contractor agrees to provide additional reports, including oral reports, as reasonably requested by the PUCT. If such additional report requires compensation to Contractor, Contractor will notify the PUCT of the estimated cost of providing the information and information substantiating the estimated cost.

4.11 Records Review. Subject to Section 2.4 of this Agreement, Contractor shall, for a period of four (4) years following the expiration or termination of this Agreement, maintain its records (electronic and paper) of the work performed under this Agreement. Records include, but are not limited to correspondence concerning the subject of this Agreement between Contractor and the PUCT; Contractor's internal correspondence; complaint information; and correspondence between Contractor and any third party. Contractor shall make all records that support the performance of Services and payment available to PUCT and/or its designees or the State Auditor during normal business hours given reasonable notice, upon the request of the PUCT Contract Administrator.

Article 5. SUBCONTRACTING PARTIES

5.1 Use of Subcontractors. The PUCT accepts the subcontractors with whom Contractor currently subcontracts as described in Contractor's proposal. Contractor will notify the PUCT Contract Administrator of any other proposed subcontract and will work with the PUCT HUB Coordinator to procure such other subcontractor and to submit appropriate subcontractor selection documentation for approval prior to engaging any other subcontractor, such approval not to be unreasonably withheld. Any such other subcontract or subsequent substitution of a subcontractor must be approved according to the terms of Article 7.

5.2 Sole Responsibility. Contractor is solely responsible for the quality and timeliness of the work produced by all subcontractors that Contractor may engage to provide Services hereunder and for the timely payment for all such work produced by all subcontractors that the PUCT accepts and pays for in accordance with the terms of this Agreement.

5.3 Prime Vendor Contract. The Parties expressly agree that this Agreement is intended to constitute a prime vendor contract, with Contractor serving as the prime vendor for delivery of the Services made the subject hereof. Contractor acknowledges and agrees that it is fully liable and responsible for timely, complete delivery of the Services described in this Agreement, notwithstanding the engagement of any subcontractor to perform an obligation under this Agreement.

Article 6. TERM, SUSPENSION, AND TERMINATION

6.1 Term. The term of this Agreement shall begin on December 1, 2011 ("Effective Date") and shall continue in effect until November 30, 2016 unless sooner terminated under Sections 6.2 or 6.3 of this Agreement.

6.2 Termination for Cause. If either party is in default of any material term of this Agreement, the other party may serve upon the defaulting party written notice requiring the defaulting party to cure such default. Unless within thirty (30) days after receipt of said notice by the defaulting party, said default is corrected or arrangements satisfactory to the non-defaulting party, as applicable, for correcting the default have been made by the defaulting party, the non-defaulting party may terminate this Agreement for default and shall have all rights and remedies provided by law and under this Agreement. In the event of termination, Contractor will provide reasonable cooperation to transfer its duties under the Agreement to another entity without disruption to the provision of services.

6.3 Termination for the Convenience of the PUCT. The PUCT may, upon sixty (60) days written notice to Contractor, terminate this Agreement whenever the interests of the PUCT so require. Upon notice of termination, Contractor shall take all reasonable measures to mitigate termination costs. Contractor shall have sixty (60) calendar days to submit a termination settlement proposal to the PUCT that shall describe all termination costs for which Contractor is seeking reimbursement. Contractor will provide the PUCT with supporting documentation and information that the PUCT deems necessary for a review of the proposal. Payment of any termination settlement costs will occur only if the PUCT has approved payment of the costs outlined in the proposal and only if there are funds available from the TUSF for such payment.

6.4 Survival. In the event that this Agreement expires or is terminated pursuant to its terms, the rights and obligations of the Parties under it shall end; provided that the provisions of Article 2, Sections 4.8, 7.3, 7.5, 19.1 through 19.3, and Articles 10, 11, 12, 14, 15 and 16 shall survive in their entirety

Article 7. ASSIGNMENT, AMENDMENTS AND MODIFICATIONS

7.1 Material Change Requests. PUCT may propose changes to the services provided. Upon receipt of a written request from the PUCT for a change in services, Contractor shall, within a reasonable time thereafter, submit to the PUCT a detailed written estimate of any proposed price and schedule adjustment(s) to this Agreement. No changes to Attachment A will occur without the Parties' written consent as provided in accordance with the terms stated in this Agreement.

7.2 Changes in Law, Rules, or Rulings. Subsequent changes in FCC regulations and requirements, other federal and state legislation or rules, and regulations or rulings by the PUCT may require modification of the terms of this Agreement, including an increase or decrease in Contractor's duties or compensation. In the event of such subsequent changes to statutes, rules and/or regulations, the PUCT and Contractor shall negotiate the terms of a contract modification,

whether an increase or a decrease in Contractor's duties or compensation, in good faith and incorporate such modification into this Agreement by written amendment.

7.3 No Assignment of Duties. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of any Party (including by merger of Contractor or otherwise by operation of law); provided however that neither party shall otherwise, without the prior written consent of the other party, assign or transfer this Agreement or any obligation incurred under this Agreement, except that Contractor may assign this Agreement to a parent company, controlled Affiliate, Affiliate under common control, or an entity that has purchased all or substantially all of its assets upon written notice to the PUCT.

7.4 Amendments and Modifications. This Agreement may not be amended or modified in any manner except by written instrument executed by authorized representatives of the Parties in accordance with the terms of this Agreement.

7.5 Binding on Successors. The terms of this Agreement shall be binding on any successor organization of any of the Parties.

Article 8. REPRESENTATIONS, WARRANTIES AND COVENANTS

8.1 Warranty of Performance. Contractor represents, warrants, and covenants that it will perform the services outlined in Attachment A in a professional and workmanlike manner, consistent with professional standards of practice in the industry. Except as, and only to the extent expressly provided in this agreement products and services are provided "as is." Sprint disclaims all express or implied warranties and in particular disclaims all warranties of merchantability, fitness for a particular purpose, and warranties related to equipment, material, services, or software.

8.2 Warranty of Services. Contractor warrants that the services shall be rendered under the supervision of the qualified personnel named in Section 19.7 of this Agreement. If Services provided under this Agreement require a professional license, then Contractor represents, warrants, and covenants that the activity will be performed only by duly licensed personnel.

Article 9. RISK OF LOSS AND PROPERTY RIGHTS

9.1 Risk of Loss. The risk of loss for all items to be furnished hereunder shall remain with Contractor until the items are delivered to the PUCT, at which time the risk of loss shall pass to the PUCT.

9.2 Ownership. Facilities and equipment owned and used by Contractor to provide Services remain the property of Contractor and nothing in this Agreement will be construed to require Contractor to transfer ownership to the PUCT. Data contained in the complaint database or other customer databases will be transferred to a successor contractor, if any, at the expiration of this Agreement, subject to the following: for CapTel services, the CapTel databases can only be provided to another CapTel vendor.

8XX numbers used in providing Services, with the exception of the toll free numbers listed below, as well as the website domain name, are the property of the PUCT. The following toll free numbers will remain the property of Sprint or Sprint's CapTel subcontractor and will not transfer to PUCT upon expiration or termination of the Agreement:

- 1-800-676-3777 (TTY/Voice/ASCII/VCO/HCO) – Sprint Customer Service
- 1-800-676-4290 (TTY/ASCII/HCO/Voz/VCO) – Sprint Spanish Customer Service

- 1-800-855-4000 Sprint TTY Operator Service
- 900-230-2302 Texas – Sprint 900 Pay-Per-Call Numbers to Not Transfer
- 866-334-8193 - CapTel Standard English Data-in Service Number
- 877-243-2823 - CapTel Standard English Voice-in Service Number
- 866-217-3339 - CapTel Standard Spanish Data-in Service Number
- 866-217-3362 - CapTel Standard Spanish Voice-in Service Number
- 888-269-7477 - CapTel English Customer Service Number
- 866-670-9134 - CapTel Spanish Customer Service Number

9.3 Prior Works. Except as provided herein, all previously owned materials, conceptions or products shall remain the property of Contractor and nothing contained in this Agreement will be construed to require Contractor to transfer ownership of such materials to the PUCT.

9.4 Trademarks. The Parties agree that no rights to any trademark or service mark belonging to another Party or to any non-Party are granted to any other Party by this Agreement, unless by separate written instrument. The PUCT acknowledges and agrees that use of any trademark associated with any software provided by Contractor under this Agreement does not give the PUCT any rights of ownership in the trademark or the software.

9.5 Program Information. Contractor shall undertake all reasonable care and precaution in the handling and storing of Customer's this information as it relates to the services being provided by Contractor.

9.6 Provision to be Inserted in Subcontracts. If applicable, Contractor shall insert an article containing paragraphs 9.2 and 9.5 of this Agreement in all subcontracts hereunder except altered as necessary for proper identification of the contracting Parties and the PUCT under this Agreement.

Article 10. TREATMENT OF INFORMATION

10.1 Confidential Information. The Parties agree to take all reasonable steps and the same protective precautions to protect confidential information from disclosure to third parties as with their own proprietary and confidential information. Confidential Information submitted by Contractor to the PUCT must be clearly marked. Without Contractor's written permission, the PUCT will not disclose, provide, or make available any information marked "confidential" by Contractor to any person except to the PUCT's employees, officers, directors, or third parties whose access is necessary to enable such party to exercise its rights hereunder.

10.2 Texas Public Information Act. (Texas Government Code Chapter 552). The Parties acknowledge that notwithstanding any other provisions of this Agreement, the Texas Public Information Act ("PIA") governs the treatment of all information held by or under the control of the Commission. The Commission promptly will notify Contractor of requests for Contractor's confidential information in order to provide an opportunity for Contractor to claim an exception to disclosure.

10.3 Agreement Not Confidential. The Parties acknowledge that not all terms of this Agreement may be confidential pursuant to the Texas Public Information Act, regardless of whether those terms are marked "Proprietary," "Trade Secret," or "Confidential." Contractor further acknowledges that in the event of a dispute over the release of a proposal or part of a proposal the PUCT is bound by the decision made by the Office of the Attorney General.

10.4 Privacy.

Sprint's privacy policy, as amended from time to time, is available at www.sprint.com/legal/privacy.html. The privacy policy includes information about Sprint's customer information practices and applies to the provisioning of the Products and Services

Article 11. CONFLICTS OF INTEREST AND EMPLOYMENT RESTRICTION

11.1 No Conflicting Relationships. Contractor certifies to the Commission that no existing or contemplated relationship exists between Contractor and the Commission that interferes with fair competition or is a conflict of interest, and that no existing or contemplated relationship exists between Contractor and another person or organization, whether or not located within the State of Texas, that constitutes or will constitute a conflict of interest for Contractor with respect to the Commission.

11.2 Prohibition on Transactions with Parties Adverse to Commission. Contractor agrees that during performance of this Agreement, it will neither provide contractual services nor enter into any agreement, oral or written, to provide services to a person or organization that is regulated or funded by the Commission or that has interests that are directly or indirectly adverse to those of the Commission. The Commission may waive this provision in writing if, in the Commission's sole judgment, such activities of the Contractor will not be adverse to the interests of the Commission.

11.3 Notice of Conflict. Contractor agrees to promptly notify the PUCT of any circumstance that may create a real or perceived conflict of interest. Contractor agrees to use its best efforts to resolve any real or perceived conflict of interest to the satisfaction of the PUCT. Contractor's failure to do so shall be grounds for termination of this contract for cause, pursuant to Section 6.2.

Article 12. INDEMNIFICATION

12.1 Personal Injury, Death or Damage to Personal Property. Contractor will indemnify and defend PUCT, its directors, officers, employees, agents and their successors against all third party claims for damages, losses, liabilities, or expenses, including reasonable attorney's fees, arising directly from performance of this Agreement and relating to personal injury, death, or damage to tangible personal property that is alleged to have resulted, in whole or in part, from the negligence or willful misconduct of Sprint or its subcontractors, directors, officers, employees or authorized agents.

12.2 Intellectual Property. Contractor will indemnify and defend PUCT, PUCT's directors, officers, employees, agents, and their successors against third party claims enforceable in the United States alleging that Services as provided infringe any third party United States patent or copyright or contain misappropriated third party trade secrets. Contractor's obligations under this section will not apply to the extent that the infringement or violation is caused by (i) functional or other specifications that were provided by or requested by PUCT; or (ii) PUCT's continued use of infringing Services after Contractor provides reasonable notice to PUCT of the infringement. For any third party claim that Contractor receives, or to minimize the potential for a claim, Contractor may, at its option and expense, either:

- (A) procure the right for PUCT to continue using the Services;
- (B) replace or modify the Services with comparable Services; or
- (C) or terminate the Services

Article 13. INSURANCE

13.1 Minimum Insurance. Contractor shall, at its sole cost and expense, secure and maintain as a minimum, from the Effective Date and thereafter during the term of this Agreement, for its own protection and the protection of the PUCT: (a) commercial liability insurance; (b) automobile liability coverage for vehicles driven by Contractor's employees; and (c) workers' compensation insurance. The commercial liability policy shall provide a minimum coverage of \$500,000 per occurrence and \$1,000,000 aggregate. The automobile liability policy shall provide a minimum coverage of \$500,000 per occurrence. The workers' compensation insurance shall provide the following coverage: \$300,000 for medical expenses and coverage for at least 104 weeks, \$100,000 for accidental death and dismemberment, 70% of employee's pre-injury income for not less than 104 weeks; and \$500 maximum weekly benefit. The PUCT shall be named an additional insured on the commercial liability and automobile policies.

13.2 Certificates of Insurance. Contractor shall furnish to the PUCT certificates of insurance, signed by authorized representatives of the surety or insurers, of all such bonds and insurance and confirming the amounts of such coverage within ten business days of September 1, 2011. Contractor shall provide the PUCT Contract Administrator with timely renewal certificates as the coverage renews. Failure to maintain such insurance coverage specified herein, or to provide such certificates promptly, shall constitute a material breach of this Agreement.

Article 14. DISPUTE RESOLUTION

Any dispute concerning performance arising between the parties relating to this Agreement, that is not resolved by mutual agreement of the parties, will be promptly submitted in writing to the other party in accordance with the Notice requirements of the contract. The parties shall designate individuals with authority to resolve the dispute and such individuals shall work diligently and in good faith to resolve the dispute within thirty (30) days. In the event the parties are unable to resolve the dispute within sixty (60) days, any dispute concerning performance of the Agreement shall be resolved pursuant to the dispute resolution process provided for in Chapter 2260 of the Texas Government Code and Subchapter C of the PUCT Rules for Administrative Services.

Article 15. SOVEREIGN IMMUNITY

The State of Texas and the PUCT do not waive sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them under the laws of the State of Texas or the common law.

Article 16. GOVERNING LAW

Notwithstanding anything to the contrary in this Agreement, this Agreement shall be deemed entered into in the State of Texas and shall be governed by and construed and interpreted in accordance with the laws of the State of Texas that apply to contracts executed in and performed entirely within the State of Texas, without reference to any rules of conflict of laws. The Parties consent to the exclusive jurisdiction of the State of Texas. The Parties hereby submit to the jurisdiction of courts located in, and venue is hereby stipulated to, the state courts located in Travis County, Texas. Each Party stipulates that it is subject to the jurisdiction of the courts located in Travis County, Texas, for any cause of action arising from any act or omission in the performance of this Agreement. Further, each Party hereby waives any right to assert any defense to jurisdiction being held by the courts located in Travis County, Texas, for any cause of

action arising from any act or omission in the performance of this Agreement.

Article 17. COMPLIANCE WITH LAW

17.1 General. Contractor shall comply with Federal Communications Commission regulations and requirements; all other federal, state and local laws; executive orders; and federal and state regulations and rules applicable at the time of performance. Contractor warrants that all services sold hereunder shall have been produced, sold, delivered, and furnished in strict compliance with all applicable laws and regulations, including Equal Employment Opportunity laws, to which they are subject. All laws and regulation required in agreements of this character are hereby incorporated by this reference.

17.2 Taxes. Contractor agrees to comply with any and all applicable state tax laws that may require any filing with and/or payment to the State of Texas as result of any action taken as a result of this Agreement.

17.3 Worker's Compensation. Contractor agrees that it shall be in compliance with applicable state worker's compensation laws throughout the term of this Agreement.

17.4 Conflicts. Contractor agrees to abide by the requirements of and policy directions provided by the Texas statutes and the rules and regulations of the PUCT, and will inform and consult with the PUCT when further interpretations or directions are needed in order to fully implement the rules and regulations of the Commission. In the event that Contractor becomes aware of inconsistencies between this Agreement and a Texas statute or PUCT rule, Contractor will so advise the PUCT and will cooperate fully to revise applicable provisions of this Agreement as necessary.

Article 18. CONTRACTOR'S CERTIFICATION

By accepting the terms of this Agreement, Contractor certifies that, to the extent applicable, it is in compliance with the following requirements and prohibitions. Contractor understands and agrees that a false certification may lead to termination of this Agreement for cause.

18.1 Prohibitions on Gifts. Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Agreement.

18.2 Delinquent Obligations. Contractor is not currently delinquent in the payment of any franchise or sales tax owed the State of Texas, and is not delinquent in the payment of any child support obligations under applicable state law.

18.3 Antitrust. Neither Contractor nor anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State, codified in Section 15.01, et seq., of the Texas Business and Commerce Code or the Federal Antitrust Laws, nor has communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage.

18.4 Family Code. Contractor has no principal who is ineligible to receive funds under Texas Family Code § 231.006 and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

18.5 Prohibited Compensation. Contractor has not received compensation from the PUCT, or any agent, employee, or person acting on the PUCT's behalf for participation in the preparation of this Agreement.

18.6 Government Code. Pursuant to Texas Government Code § 2155.004, regarding the collection of state and local sales and use taxes, the individual or business entity named in the

proposal and with whom the PUCT is contracting is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.

18.7 Outstanding Obligations. Payments due under the contract will be applied towards any debt that is owed to the State of Texas, including but not limited to delinquent taxes and child support.

18.8 Contracting with Executive Head of State Agency. The Agreement is in compliance with Texas Government Code § 669.003 relating to contracting with the executive head of a State agency.

18.9 Buy Texas. Contractor will comply with Texas Government Code § 2155.4441, pertaining to service contracts regarding the use of products produced in the State of Texas.

18.10 Hurricane Recovery. Contractor certifies that the individual or business entity named in this proposal is not ineligible for contract award under Government Code § 2155.006 and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

Article 19. GENERAL PROVISIONS

19.1 Relationship of Parties. Contractor is and shall remain at all times an independent contractor, and nothing in this Agreement shall be deemed to create a joint venture, partnership, employment, franchise, master-servant, or agency relationship between the Parties. Except as expressly provided to the contrary elsewhere in this Agreement, no Party has any right or authority to act on behalf of another Party, nor to assume or create any obligation, liability or responsibility on behalf of another Party. Under no circumstances shall the relationship of employer and employee be deemed to arise between the PUCT and Contractor's personnel. Contractor shall be solely responsible for achieving the results contemplated by this Agreement, whether performed by Contractor, its agents, employees or subcontractors.

19.2 Taxes and Statutory Withholdings. Contractor acknowledges that it is not a PUCT employee, but is an independent contractor. Accordingly, it is Contractor's sole obligation to report as income all compensation received by Contractor under the terms of this Agreement. Contractor is solely responsible for all taxes (federal, state, local), withholdings, social security, unemployment, Medicare, Worker's Compensation insurance, and other similar statutory obligations (of any governmental entity of any country) arising from, relating to, or in connection with any payment made to Contractor under this contract. Contractor shall defend, indemnify and hold the PUCT harmless to the extent of any obligation imposed by law on the PUCT to pay any tax (federal, state, local), withholding, social security, unemployment, Medicare, Workers' Compensation insurance, or other similar statutory obligation (of any governmental entity of any country) arising from, relating to, or in connection with any payment made to Contractor under this Agreement. Further, Contractor understands that neither it nor any of its individual employees is eligible for any PUCT employee benefit, including but not limited to holiday, vacation, sick pay, withholding taxes (federal, state, local), social security, Medicare, unemployment or disability insurance, Worker's Compensation, health and welfare benefits, profit sharing, 401(k) or any employee stock option or stock purchase plans. Contractor hereby waives any and all rights to any such PUCT employment benefit.

19.3 Notice. Except as otherwise stated in this Agreement, all notices provided for in this Agreement shall be (a) in writing, (b) addressed to a Party at the address set forth below (or as expressly designated by such Party in a subsequent effective written notice referring specifically

to this Agreement), (c) sent by Certified U.S. mail, Return Receipt Requested, with proper postage affixed and (d) deemed effective upon the third business day after deposit of the notice in the U.S. mail.

IF TO THE PUCT:

ATTENTION: Brian H. Lloyd, Executive Director
1701 N. Congress Ave., 7th Floor
Austin, TX 78701

With a copy to the PUCT Contract Administrator at the same address.

IF TO Contractor:

Attn: Legal Dept. – Public Sector
12502 Sunrise Valley Drive
MS: VARESA0208
Reston, VA 20196

19.4 Headings. Titles and headings of paragraphs and sections within this Agreement are provided merely for convenience and shall not be used or relied upon in construing this Agreement or the Parties' intentions with respect thereto.

19.5 Export Laws. Contractor represents, warrants, agrees and certifies that it (a) shall comply with the United States Foreign Corrupt Practices Act (regarding, among other things, payments to government officials) and all export laws and rules and regulations of the United States Department of Commerce or other United States or foreign agency or authority and (b) shall not knowingly permit any non-Party to directly or indirectly, import, export, re-export, or transship any intellectual property or any third Party materials accessed by Contractor during the course of this Agreement in violation of any such laws, rules or regulations.

19.6 Preprinted Forms. The use of preprinted forms, such as purchase orders or acknowledgments, in connection with this Agreement is for convenience only and all preprinted terms and conditions stated thereon are void and of no effect. The terms of this Agreement, including but not limited to Article 19.11, cannot be amended, modified or altered by any conflicting preprinted terms, provisions or conditions contained in a preprinted form, such as purchase orders or acknowledgements. If any conflict exists between this Agreement and any terms and conditions on a purchase order, acknowledgment or other preprinted form, the terms and conditions of this Agreement will govern.

19.7 Specific Personnel. Contractor has identified the management team for this assignment ("Team"), as follows:

- Scott Demarest, Relay Texas Manager
- Dottie Cartrite, Senior Account Executive
- Maggie Schoolar, Sprint Relay Sales Manager

Contractor warrants that it shall use its best efforts to avoid any changes to the Team during the course of this Agreement. Contractor will notify the PUCT within two weeks of any personnel change. Contractor will recommend to the PUCT personnel with comparable experience and required qualifications and training. The PUCT must approve any change in personnel on this project. However, approval for any changes in Contractor personnel shall not be withheld by the PUCT. Contractor shall provide individuals qualified to perform the tasks assigned to such individual. At the PUCT's request, Contractor shall remove from the project any individual

whom the PUCT finds unacceptable. Contractor shall replace such individual with another individual satisfactory to the PUCT as soon as practicable.

19.8 Publicity. Contractor understands and agrees that no public disclosures or news releases pertaining to this Agreement or any results or findings based on information provided, created, or obtained to fulfill the requirements of this Agreement shall be made without prior written approval of the PUCT.

Article 20. Services

20.1 Donations. Contractor and its subcontractors may make donations to any organization by, of, or for the deaf or for those with a hearing or speech disability during the term of this Agreement. Donations may not reference Contractor's relationship with the PUCT. Contractor will inform the PUCT of any compensation or gifts between Contractor, its employees, or its subcontractors and a PUCT employee. Contractor is prohibited from making gifts or donations or providing a benefit of any kind, including an offer of employment, to a PUCT employee during the term of this Agreement.

20.2 Local Exchange Carriers. Contractor shall be responsible for comparing the incoming caller's telephone number to the telephone number to be dialed. Based on the mileage between the two points, Contractor determines if the call is local or toll. If the call is within the local calling area, Contractor shall process the call without passing on charges to the end user. If the call is a toll call (outside the local calling area), the caller's preferred carrier is responsible for billing and rating the call. If carrier of choice does not participate in Relay, then the end user will be billed at Sprint's discounted rate for Relay

20.3 Carrier of Choice. When requested by an end user to add a carrier of choice, Contractor will contact interexchange carriers not listed with Relay Texas and invite them to participate in Carrier of Choice. Contractor will provide a copy of its correspondence to the PUCT with its next scheduled report.

20.4 Penalties. The PUCT will not assess penalties for days in which acts of God or system or network breakdowns that are not Contractor's fault cause the Average Speed of Answer (ASA) to exceed 3.3. It is Contractor's responsibility, however, to demonstrate why the penalty should not be assessed.

20.5 Greetings for 8XX Numbers. Contractor will submit a unique greeting for each 8XX number, with the exception of the toll free numbers identified in Section 9.2, to the PUCT for approval. Contractor will place the greetings on the website and use them in outreach projects and materials.

20.6 Outreach. Contractor will provide an annual outline of costs and activities for each outreach project and submit the outline to the PUCT for review.

20.7 ASA Penalty Formula. The ASA penalty formula applies also to Captioned Telephone Service (CTS), and Contractor shall derive its calculations from the CTS call summary.

Article 21. PERFORMANCE BOND

On or before September 15, 2011, Contractor shall submit a performance bond in the amount of \$2,000,000 (two million and no/100 dollars) payable to the PUCT. The performance bond is solely for the protection of the PUCT and serves as a guarantee for Contractor's faithful performance of its obligations under this Agreement. The proceeds of the bond shall be payable to the PUCT if Contractor materially defaults in the performance of Services and fails to cure such default within thirty calendar days (30 days) of Contractor's receipt of written notice of

default.

Article 22. NO IMPLIED WAIVER

The failure of any party, at any time, to enforce a provision of this Agreement will not constitute a waiver of that provision; will not affect the validity of this contract or any part of it; and will not affect the right of any party to enforce each and every provision.

Article 23. ORDER OF PRECEDENCE

In the event of conflicts or inconsistencies between the provisions of this Agreement and its attachments, the provisions of this Agreement will control. In the event of a conflict between the provisions of the contract document, the following provisions control in the order presented:

- The provisions of this Agreement, including modifications
- The provisions of Contractor's proposal
- The RFP

Any ambiguities in this Agreement shall be resolved by the PUCT.

Article 24. FORCE MAJEURE

Neither party will be responsible for any delay, interruption or other failure to perform under this Agreement due to acts or events beyond the reasonable control of the responsible party (a "Force Majeure Event"). Force Majeure Events include, but are not limited to: natural disasters (e.g. lightning, earthquakes, hurricanes, floods); wars, riots, terrorist activities, and civil commotions; inability to obtain parts or equipment from third party suppliers, cable cuts by third parties, a LEC's activities, and other acts of third parties; explosions and fires; embargoes, strikes, and labor disputes; court orders and governmental decrees.

Article 25. SEVERABILITY

If any provision of this Agreement will be held unlawful or otherwise unenforceable, such provision will be severed and deemed deleted and the remainder of this Agreement will continue in full force and effect, as if such provision had never existed.

Article 26. LIMITATIONS OF LIABILITY

(a) Direct Damages. Each party's maximum liability for damages caused by its failure(s) to perform its obligations under this Agreement is limited to: (A) proven direct damages for claims arising out of personal injury or death, or damage to real or tangible personal property, caused by the party's negligent or willful misconduct; or (B) proven direct damages for all other claims arising out of this Agreement, not to exceed in the aggregate, in any 12 month period, an amount equal to Customer's total net payments for the affected Services purchased in the six months prior to the event giving rise to the claim. Customer's payment obligations and Sprint's indemnification obligations under this Agreement are excluded from this provision.

(B) Consequential Damages. NEITHER PARTY WILL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, OR INDIRECT DAMAGES FOR ANY CAUSE OF ACTION, WHETHER IN CONTRACT OR TORT. CONSEQUENTIAL, INCIDENTAL, AND INDIRECT DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOST PROFITS, LOST REVENUES, AND LOSS OF BUSINESS

OPPORTUNITY, WHETHER OR NOT THE OTHER PARTY WAS AWARE OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF THESE DAMAGES.

Article 27. USE OF SERVICE

27.1 Acceptable Use Policy. If Customer purchases Products or Services, Customer must conform to the acceptable use policy posted at <http://www.sprint.com/legal/agreement.html>, as reasonably amended from time to time by Sprint.

27.2 Abuse and Fraud. Customer will not use Products or Services: (1) for fraudulent, unlawful or destructive purposes, including, but not limited to, unauthorized or attempted unauthorized access to, or alteration, abuse, or destruction of information; or (2) in any manner that causes interference with Contractor's or another's use of the Contractor's network. Customer will cooperate promptly with Contractor to prevent third parties from gaining unauthorized access to the Products and Services via Customer's facilities.

27.3 Permits, Licenses and Consents. If applicable, Customer will obtain all required permits, licenses, or consents that Customer is required to obtain to enable Contractor to provide (e.g., landlord permissions, tax exemption certificates, software licenses, or local construction licenses) the Products and Services. This provision does not include permits, licenses, or consents related to Contractor's general qualification to conduct business.

Article 28. CONTRACTOR'S DISCLAIMERS

Contractor is not responsible for any loss, liability, damage, or expense, including attorney's fees, resulting from any third party claims alleged to arise in any way from (i) the content of any information transmitted by, accessed, or received through, Contractor's provision of the Products and Services to Customer, including, but not limited to, claims (A) for libel, slander, invasion of privacy, infringement of copyright, and invasion or alteration of private records or data; (B) for infringement of patents arising from the use of equipment, hardware, or software not provided by Contractor; or (C) based on transmission and uploading of information that contains viruses, worms, or other destructive media or other unlawful content or (ii) the content of any information transmitted, accessed, or received by Customer through Contractor's provision of the Products and Services, excluding content originating from Contractor.

Article 29. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding between the parties with regard to its subject matter and supersedes and merges all prior discussions, writings, negotiations, understandings, and agreements concerning the provision of these services.

In WITNESS WHEREOF both parties by their duly authorized representatives have executed this contract effective as of the last date signed.

The Public Utility Commission of Texas

Sprint Communications Co., L.P.

By: 

By: 

Brian H. Lloyd
Executive Director

Rita J. Fistere
Director, Contract Management

Date Signed: 12-1-11

Date Signed: 12-6-2011

PUC General Law

Approved: 

Approved by
Public Sector Legal
as to legal form
HRE 12/6/11