

STANDARD AGREEMENT

STD 213 (Rev 06/03)

AGREEMENT NUMBER

03PS5311

REGISTRATION NUMBER

8660050431031

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

California Public Utilities Commission

CONTRACTOR'S NAME

Sprint Communications Company, LP

2. The term of this Agreement is: From date of DGS approval through a three-year service period per Paragraph 2 of the attached California Relay Service Contract for CRS Network Services

3. The maximum amount of this Agreement is: Amount dependent per agreed-to formula per Paragraph 7 of the attached California Relay Service Contract for CRS Network Services

4. The parties agree to comply with the terms and conditions of the California Relay Service Contract for CRS Network Services and CCC-304, which are made a part of the Agreement.

Sprint – NS Agreement (RFP NS Agreement), 28 pages

Sprint – NS Agreement (CCC-304, Contractor Certification Clauses), 4 pages

All GTC 304 provisions appear in Sprint – NS Agreement (RFP NS Agreement)

IN WITNESS WHEREOF, the parties have executed this Agreement hereto.

CONTRACTOR

Sprint Communications Company, LP

BY

DATE SIGNED

3/25/04

PRINTED NAME AND TITLE OF PERSON SIGNING

Anthony G. D'Agata, Vice President & General Manager

ADDRESS

13221 Woodland Park Road, Herndon, VA 20171

STATE OF CALIFORNIA

AGENCY NAME

California Public Utilities Commission

BY

DATE SIGNED

4/8/04

PRINTED NAME AND TITLE OF PERSON SIGNING

William R. Ahern, Executive Director

ADDRESS

505 Van Ness Avenue, San Francisco, CA 94102

California Department of General Services Use Only

APPROVED

MAY - 4 2004

DEPT OF GENERAL SERVICES

Kyates

CALIFORNIA RELAY SERVICE

CONTRACT

for

CRS NETWORK SERVICES

Agreement with

Sprint Communications Company, L.P.

March 17, 2004

California Public Utilities Commission – Telecommunications Division
Deaf and Disabled Telecommunications Program
505 Van Ness Avenue
San Francisco, California 94102

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FORM CCC-304 CONTRACTOR CERTIFICATION CLAUSES

NETWORK SERVICES AGREEMENT

RECITALS

WHEREAS,

1. The Deaf and Disabled Telecommunications Program Administrative Committee (DDTPAC) formerly contracted for required services in support of the Deaf and Disabled Telecommunications Program (DDTP) including the California Relay Services (CRS), which has and now operates under the authority of the California Public Utilities Commission (CPUC), a State of California agency.
2. Public Utilities Code section 278 (a) (1) was amended in 2002 (AB 1734), adding section 278.5, so that effective June 30, 2003 the DDTPAC ceased to exist as a legal entity.
3. Public Utilities Code section 2881.4 authorizes the CPUC to enter into contracts, beginning July 1, 2003, to provide telecommunication services and equipment for deaf, disabled and hearing-impaired persons, and states the priority for maintaining long-term continuity of the DDTP in all respects.
4. Public Utilities Code section 2881.4 (b) specifically authorizes the CPUC to contract, consistent with state contracting requirements, with firms to provide, manage or operate programs like the DDTP, which are authorized under Public Utilities Code sections 2881, 2881.1, and 2881.2.
5. Existing and pending DDTP contracts became the responsibility of the CPUC effective July 1, 2003, and for matters related to the California Relay Service (CRS) and the DDTP, the CPUC became the State of California contracting party, also effective July 1, 2003.
6. On October 9, 20002, Sprint Communications Company, L.P., (hereinafter called Sprint, the Network Services Provider, NS Provider, Provider or Contractor) offered the DDTP a proposal for CRS Network Services in response to a Request For Proposal (RFP) issued by the DDTP, with final pricing submitted on December 31, 2002. The RFP and the Contractor's proposal with pricing are attached hereto as Exhibit A and Exhibit B respectively, and made parts hereof. Exhibit A consists of a DDTP CRS Request For Proposal (RFP). Exhibit B consists of the Contractor's proposal in response to the RFP.
7. By resolution #T-16741 approved on June 19, 2003, the CPUC accepted and authorized the Sprint services as defined in the RFP and in the Contractor's proposal, subject to final contract approval by the California Department of General Services (DGS).
8. The California Public Contracts Code requires all contracts entered into by a State agency to conform with California's statutory and policy requirements, and to be reviewed and approved by DGS.

THEREFORE, Sprint and the CPUC agree to the following terms and conditions:

1. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which Sprint Communications Company, L.P., a Delaware Limited Partnership, will provide network services for a statewide telecommunications relay service, known as the California Relay Service (hereinafter called CRS). The CRS is a service through which hearing-impaired and speech-impaired persons are provided with access to the public telecommunications network in California, which is functionally equivalent to that provided to other public telecommunications network customers. In accordance with California Public Utilities Code § 2881, the CRS is a DDTP program under the authority of the California Public Utilities Commission. Beginning July 1, 2003, advice is provided to the CPUC by the Telecommunications Access for the Deaf and Disabled Administrative Committee (hereinafter called TADDAC) and the California Relay Service Advisory Committee (hereinafter called CRSAC). Program administration for the DDTP is provided by the CPUC Telecommunications Division. At the CPUC's sole option, it may contract with other entities to manage its agreements with CRS providers, including Sprint. The parties hereby agree that the CPUC shall assume full contractual responsibility and authority for all those entities with previously defined contractual obligations, or which receive benefits under the DDTP RFP (e.g., the DDTP, DDTPAC, CRSAC) and, with written notification to the CCS provider, it may modify or assign their responsibilities.

2. TERM OF AGREEMENT

This Agreement is effective upon signing by both parties and formal approval by the Department of General Services (DGS). Contractor may not commence performance of services under this agreement until such approval is obtained. Once effective, the Network Services Provider shall provide the services described in paragraph 4, Scope of Work, with the period of service supporting live CRS calls to be continuously provided for three years from the date of In-Service/Cutover stipulated in the DDTP CRS Request for Proposal (RFP) Section 1.7 item 23, or as established by the CPUC per paragraph 6, or other date as mutually agreed upon by the Network Services Provider and the CPUC. The CPUC shall have the option to further extend this Agreement and the service period for up to two one-year terms and one six-month term as further set forth in the RFP. These service terms shall remain in effect unless earlier terminated by the CPUC in accordance with the termination provisions contained in Paragraphs 25 and 26 herein.

3. FUNDING

(The following section contains language that meets the requirements of GTC304.)

It is mutually agreed that if the State of California Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate funds for the program, this Agreement shall be of no further force and effect. In this event, the CPUC shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the CPUC shall have the option to either cancel this Agreement with no liability occurring to the CPUC, or offer an agreement amendment to the Contractor to reflect the reduced amount.

If the term of this contract extends into fiscal years subsequent to that in which it is approved, such continuation of the contract is contingent on the appropriation of funds for such purpose by the California Legislature. When appropriation is delayed, reduced or deleted, the Network Services Provider may, with the approval of the CPUC Contract Manager, continue to provide the services herein, however under such circumstances the Network Services Provider shall do so at its own risk, and the obligation of the CPUC to pay for such services shall be completely dependent upon the further appropriation of applicable funds. If funds to effect such continued payment are not appropriated, contractor agrees to take back any affected goods furnished under this contract, terminate any services supplied to the CPUC under this contract, and relieve the CPUC of any further obligation therefor.

4. CONTRACT AND PROJECT MANAGERS

The CPUC and the Network Services Provider shall each establish a Contract Manager assigned to this contract and may establish a Project Manager assigned to manage the services provided under this Agreement. If at anytime a Project Manager is not assigned, the responsibilities of the Project Manager shall revert to the Contract Manager. Assignment of the CPUC's Project Manager shall be via written notice from the CPUC's Director - Telecommunications Division to the Network Services Provider's Contract Manager, copied to the Network Services Provider's Project Manager. Assignment of the Network Services Provider's Project Manager shall be via written notice from the Network Services Provider's Contract Manager to the CPUC's Contract Manager, copied to the CPUC's Director - Telecommunications Division and Project Manager.

The CPUC Director – Telecommunications Division is

California Public Utilities Commission (CPUC)
Jack Leutza, Director, TELCO
505 Van Ness Avenue San Francisco, CA 94102
Phone: (415) 703-1060
Fax: (415) 703- 4405
Email: jml@cpuc.ca.gov

The Contract Manager for the CPUC shall be

California Public Utilities Commission (CPUC)
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Linda Gustafson
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-1801
Fax: (415) 703-4405
Email: llg@cpuc.ca.gov

The Contract Manager for the Network Services Provider shall be

SPRINT
Don Rawlings, Sr. Contract Administrator
13221 Woodland Park Road
Herndon, VA 20171
Phone: (703) 904-2492
Fax: (703) 904-2069
Email: don.j.rawlings@mail.sprint.com

The Project Manager for the Network Services Provider shall be

SPRINT
John Hogue, TRS Program Manager
6666 W. 110th Street
Overland Park, KS 66211
Phone: (913) 661-8967
Fax: (913) 661-8950
Email: john.f.hogue@mail.sprint.com

The CPUC may change its Contract or Project Manager at any time upon written notice to the Network Services Provider's Contract Manager by the CPUC's Director - Telecommunications Division. The Network Services Provider's Contract Manager or Project Manager may be changed 14-days following the CPUC's receipt of a written notice addressed to the CPUC's Contract Manager and which specifically identifies the new Contract or Project Manager, his/her qualifications, and a transition plan. The Network Services Provider will provide its new Contract or Project Manager with a full working knowledge of the appropriate contract terms and commitments, the project's status, employed technologies and personnel, and shall ensure that the new Contract or Project Manager has familiarity with all aspects of the responsibilities he/she is about to assume.

All correspondence and transmittals of formal notifications concerning this Agreement shall be addressed to the Contract Managers unless otherwise stipulated herein. The assigned Contract and Project Managers shall handle all communications in a timely manner. All formal notices shall be deemed to be delivered five days after mailing by registered or certified mail, return receipt requested, or sending through reputable overnight

delivery service providing confirmation of delivery. A change of address shall be noticed in the same manner.

The NS Provider shall copy the CPUC Project Manager and/or its designees on all correspondence and communication from the Provider (or its subcontractors) to any other CRS Provider (or its CRS subcontractors) regarding all matters having to do with CRS. Such copy shall be delivered to the CPUC simultaneously with delivery of the original correspondence and communication to the CRS Provider. The NS Provider shall endeavor to include the CPUC Project Manager and/or its designees in any such realtime communication, e.g., telephone conference, TTY, webchat, videoconference, etcetera. The NS Provider shall invite the CPUC Project Manager and/or its designees to attend all in-person meetings held between the NS Provider (or its CRS subcontractors) and any other CRS Provider (or its CRS subcontractors) when the subject matter includes CRS. The CPUC's attendance at such meetings shall be at its own expense. The NS Provider shall provide a summary of all such realtime and in-person communications as related to CRS, to the CPUC Project Manager and/or its designees when the CPUC Project Manager or its designee is not able to participate in the communication.

5. SCOPE OF WORK

The Network Services Contractor shall establish and operate toll-free services, outbound services with associated consumer billing, and all those services associated with the Network Services component of the California Relay Service as described in:

- a.) the DDTP's RFP (attached hereto as Exhibit A and hereinafter referred to as the RFP); and
- b.) the contractor's proposal in response to the RFP, including written responses to the DDTP's questions (attached hereto as Exhibit B and hereinafter referred to as Contractor's Proposal).

The CPUC may approve the NS Provider's request for substitution of hardware or software from that proposed by the NS Provider in response to the CRS RFP or as implemented, with hardware or software of equal or better quality, without cost increase to the CPUC. Such CPUC approval shall be in writing signed by the CPUC Contract Manager and shall not require a contract amendment. All requests for substitution shall be in writing and shall be fully supported with documentation addressing the affected RFP requirements. The NS Provider affirms that all proposed substitutions of hardware and software shall provide equal or greater CRS functionality, compatibility and reliability than originally proposed.

All NS Provider services offered in response to CRS RFP requirements listed as "Mandatory-Optional" or "Desirable" and that are compliant with the RFP's requirements shall be included within the scope of work of this Agreement when such service is ordered by the CPUC. Such CPUC order shall be in writing signed by the CPUC Contract Manager, shall not require a contract amendment, and shall be available for ordering at anytime during the life of this Agreement. The NS Provider is not authorized to provide such "Mandatory-Optional" or "Desirable" services until so ordered by the CPUC.

The Network Services Provider shall retain full control of its facilities. The Network Services Provider is solely responsible for the provision of those services described as Network Services in Exhibits A and B attached hereto and made a part of this Agreement.

To accomplish the objectives of the CPUC and the DDTP, the Network Services Provider will coordinate and consult on an ongoing basis concerning network services provided under the terms and conditions of this Agreement.

6. SCHEDULING AND COMPLETION OF WORK

(The following section contains language that meets the requirements of GTC304.)

The Network Services Provider shall initiate the network services on a statewide basis not later than the time specified in Section 1, Key Action Dates for in-service/cutover, and as described in the DDTP's RFP, subject to the approval of this Agreement by the CPUC and DGS. The key action dates listed in RFP section 1.7. that follow the date listed for award and execution, including the in-service/cutover date for the beginning of handling live CRS calls under this contract, may be modified as stipulated in RFP Section 10.6.1. Such modification shall effectively change such dates listed in RFP section 1.7.

Time is of the essence in this Agreement and, accordingly, all established time limits shall be strictly construed and strictly enforced. The Network Services Provider's failure to meet the in-service/ cutover deadline imposed hereunder, or any such renegotiated later in-service/cutover date, shall be considered a material and significant breach of this Agreement and shall entitle the CPUC to liquidated damages as set forth in Paragraph 30. Failure of the Network Services Provider to pass Acceptance Testing prior to the in-service date and a subsequent ordered delay by the CPUC until Acceptance Testing is passed or provisionally passed, shall not relieve the Network Services Provider of its liability for said liquidated damages. An in-service date ordered by the CPUC to be later than that specified in Section 1, Key Action Dates and for which the CPUC's order specifically states that the delay is no fault of the Network Services Provider shall not be subject to such liquidated damages.

It is the desire of the CPUC that all NS, CCS and NMS CRS contracts shall be approved by the Department of General Services (DGS) on the same date, thereby establishing the same project start date for all three contracted CRS components. Should DGS approval for all contracts not be granted on the same date, the CPUC reserves the right to establish a project implementation start date for the NS Provider that is different than the DGS contract approval date. Such a CPUC established start date shall be provided by written letter by the CPUC Director of the Telecommunications Division, which may thereby modify previous dates or timeframes, including in-service cutover dates, as necessary to ensure a smooth coordinated transition to new CRS services. Start dates for all NS Provider offered services described in the CRS RFP as "Mandatory-Optional" or "Desirable" shall be as stipulated in the separate ordering clauses for those separately ordered services.

The Network Services Provider shall submit, to the CPUC Contract Manager and/or its designee with a copy to the CPUC Project Manager, a detailed work plan, including time

lines, consistent with the service start-up plan included in the Network Services Provider's proposal and the RFP which details the establishment and implementation of the statewide CRS and the associated time frames. The Provider shall submit the work plan to the CPUC no later than fourteen (14) calendar days from the CPUC and DGS approval of this Agreement, or from a modified implementation start date as defined in the paragraph immediately above.

The CPUC shall review the Network Services Provider's work plan and authorize its implementation on a mutually agreed to service date. Approval by the CPUC Director - Telecommunications Division of the Network Services Provider's work plan shall in no way relieve or release the Network Services Provider from any other obligations to properly perform and complete their portion of the establishment, implementation, and operation of CRS in accordance with this Agreement.

The Network Services Provider agrees that a representative of said Network Services Provider shall be available to meet with the CPUC and representatives of other CRS contractors for the purposes of scheduling CRS, and to address and resolve other issues and considerations pertaining to CRS. The representative will have the authority to commit the Network Services Provider.

7. COMPENSATION

(The following section contains language that meets the requirements of GTC304.)

The Network Services Provider shall be reimbursed at the rate calculated in RFP Section 7.1, as bid by the contractor in Exhibit B (RFP Exhibit 7A), which are attached and made parts of this Agreement. The CPUC will not compensate the Network Services Provider for any costs incurred for start up or termination except as expressly described herein. The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

8. INVOICES

Unless otherwise specified, invoices shall be sent to the address set forth herein.

1. For services satisfactorily rendered in accordance with the terms of and rates specified herein, and upon receipt and approval of the invoices for actual expenditures incurred after July 1, 2003, the CPUC agrees to compensate Contractor for actual services provided.
2. Invoices shall include the Agreement Number and shall be submitted in quadruplicate not more than monthly in arrears by the 5th or the 20th of each month to:

Deaf and Disabled Telecommunications Program
505 14th Street, Suite 400, Oakland, CA 94612
Attn: Shelley Bergum

With a single copy to:

California Public Utilities Commission
Telecommunications Division
505 Van Ness Avenue
San Francisco, CA 94102
ATTN: David M. Shantz - Program Manager

Invoices will be reviewed by the DDTP (in Oakland) with ultimate verification and approval by the CPUC, and shall be completed in the agency's required invoice format which includes: Contractor's name, address, Federal Tax I.D. and the DGS Contract Registration Number, as well as the requirements identified in the Prior Agreement including the amount of the invoice, and an authorized Contractor's signature. Travel expenses are not included in this Agreement.

Every invoice shall include a certification that the contractor shall not use state funds to assist, promote, or deter union organizing during the life of the contract, including any extensions or renewals thereof. (Section 16645 et. seq.)

The Network Services Provider's obligations under this Agreement shall be continual and shall not be affected by CPUC acceptance of invoices.

9. REQUIRED PAYMENT DATE

Payments will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

10. TAXES

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The CPUC will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. The CPUC may pay any applicable sales and use tax imposed by another state.

11. EXAMINATION AND AUDIT

(The following section contains language that meets the requirements of GTC304.)

The Network Services Provider agrees, by signing this contract, that the State (e.g., the CPUC, the Department of General Services (DGS), the Bureau of State Audits, or their designated representative) shall have the right to review and copy any records and supporting documentation pertaining to performance of this contract. Network Services Provider agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of record retention is stipulated. Such records shall either be maintained within California, or the Network Services Provider shall pay the State for its costs for travel at the State's rates and per diem allowances then in

California Relay Service
effect, for the State or its representatives to examine and audit the records located outside of California. The Network Services Provider agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees or others who in the sole opinion of the State's representatives might have information related to such records. Further, Network Services Provider agrees to include a similar right of the State to audit records and interview staff in any subcontract related to the performance of the contract. Examination and audit shall be subject to reasonable access, identification, security, safety or other policies of the Provider, which shall not be employed to deny or delay access. During any interviews with personnel, a representative of the Provider may be in attendance.

12. PERFORMANCE MONITORING

The Network Services Provider shall permit the CPUC and any other duly authorized agent or governmental agency to monitor all such activities conducted by the Network Services Provider and its subcontractors pursuant to the terms of this Agreement. As the monitoring agency may at its sole discretion deem necessary or appropriate, such monitoring may consist of evaluation of internal operating and management procedures, examination of program data, special analyses, on-site checking, interviews with personnel, or any other reasonable procedure. On-site checking shall require 5 days advance notice, subject to reasonable access, identification, security, safety or other policies of the Provider which shall not be employed to deny or delay access. Examination and audit shall be subject to reasonable access, identification, security, safety or other policies of the Provider, which shall not be employed to deny or delay access. During any interviews with personnel, a representative of the Provider may be in attendance.

The CPUC may not monitor the relay of an actual conversation without the approval of both parties to the conversation, unless the parties are notified that the conversation may be monitored for quality assurance. The CPUC may arrange for calls to test the relayed communications, or other factors relating to full and equal access, without the permission of the Network Services Provider. Such calls will not be identified as test or monitoring calls.

All monitoring shall be performed in a manner that will not unduly interfere with the provision of services. However, since CRS is a 24 hour, 7 days a week service, the monitoring may occur at any time. Duly authorized agents of the CPUC shall have the right to make on-the-spot checks at any time without any warning. The Network Services Provider shall make provisions to allow agents of the CPUC this capability. Refusal of the Network Services Provider to facilitate performance monitoring will be considered as a refusal to meet a performance requirement and, as such, will result in liquidated damages as stipulated in Paragraph 30.

The fact that such monitoring is undertaken shall in no way relieve or release the Network Services Provider from its obligation to properly perform its duties in accordance with the Agreement nor from Network Services Provider's full responsibility for damages or loss caused by Network Services Provider, its subcontractors, employees or agents. The Network Services Providers obligations referenced under this paragraph shall be continual

and shall not be affected by CPUC acceptance of invoices. The CPUC shall not be required to request any changes based on the monitoring undertaken pursuant to this Clause.

13. PERFORMANCE BOND

Faithful Performance bonds shall be furnished and maintained fully empowering the CPUC and/or the State to recover damages in the event of a default, in the manner described and required in Section 5 of the RFP.

14. SUBCONTRACTS

For any subcontracts anticipated to equal 15% or more of the Network Services Provider's reimbursement, the Network Services Provider shall submit any proposed subcontracts to the CPUC for its written approval before entering into the same. No such work shall be subcontracted without the prior approval of the CPUC Contract Manager. For purposes of this Agreement, any subcontractors identified in the Network Services Provider's response to this RFP are considered approved, with the exception that the CPUC shall be free to examine, at its request, the contract between the Network Services Provider and its subcontractor. Upon the termination of any such subcontract, the CPUC Contract Manager shall be notified immediately.

15. RELATIONSHIP WITH CONTRACTOR AND SUBCONTRACTOR

The Network Services Provider shall be responsible for all actions of its subcontractors and all payment to its subcontractors. Failure of a subcontractor to perform for any reason shall not relieve the Network Services Provider of the responsibility for competent and timely performance of all duties under this Agreement. The CPUC or its agents will not deal with subcontractors except through the Network Services Provider's Project Manager during implementation and their Contract Manager following the in-service date. All agreements with subcontractors shall provide that the subcontractor's sole remedy for non-payment by the Network Services Provider under subcontracts shall be against the Network Services Provider, and not result in liens or claims of any sort against the CPUC, the State or their representatives.

All requests for changes of work within this Agreement shall be in writing between the Contract Manager for the CPUC, with a copy to the CPUC's Project Manager, and the Project Manager for the Network Services Provider and shall not become final until approval by the CPUC Executive Director and DGS, as required.

16. ASSIGNMENT

(The following section contains language that meets the requirements of GTC304.)

Except for the subcontractors identified in the Network Services Provider's Proposal, the Network Services Provider may not transfer by assignment, novation or subcontract its obligation to perform under this Agreement or any part thereof, unless the prior written

approval of the CPUC's Director - Telecommunications Division as to each assignment or subcontract has been acquired.

The Network Services Provider may not, without prior written notification to the CPUC's Contract Manager and the written approval of the CPUC's Director – Telecommunications Division, assign any right that it may have under this Agreement. Consent may be given or withheld at the sole discretion of the CPUC, provided that such assignment is expressly made subject to all defenses, setoffs or counter claims which would be available to the CPUC against the Network Services Provider in the absence of such assignment. For the purpose of this paragraph, the CPUC will not unreasonably prohibit the Provider from freely assigning its right to payment, provided that the Provider remains responsible for its obligations hereunder.

The CPUC's consent to one or more assignment(s) or subcontractors hereunder shall not constitute a waiver or diminution of the CPUC's absolute right to consent to each and every subsequent assignment or subcontractor.

In the event of any subcontract hereunder to which the CPUC has consented, each such subcontract shall contain a provision that further assignments shall not be made to any third or subsequent tier subcontractor without the additional written consent of the CPUC.

The CPUC's rights and obligations, in whole or in part, to this Agreement may be assigned by order of the California Public Utilities Commission to any other entity, as allowed by California law.

17. INSURANCE COVERAGE

When performing work under this contract on CPUC property, property in the care, custody or control of the CPUC, or on the property of other providers in the CRS deployment, the Network Services Provider shall provide insurance coverage for itself and all of its employees used in connection with the performance of services under this Agreement, and insure that all subcontractors shall be similarly covered. Such policies shall be issued by a financially sound carrier and/or carriers and shall be subject to the reasonable approval of the CPUC. Copies of certificates of insurance naming the CPUC and its contractors as an additional insured shall be provided to the CPUC. Such insurance coverage shall hold the CPUC and its contractors harmless from all claims of bodily injury, including death, and property damage, including loss of use, by Network Services Provider, its employees, agents or subcontractors and their employees. This insurance will include Workers Compensation as required by law applicable to the Provider; comprehensive general liability and bodily injury insurance in amounts that are commercially reasonable under the given circumstances.

18. REGULATORY AUTHORITY

The Network Services Provider assumes responsibility for compliance with all regulatory requirements of the CPUC, as well as all other applicable statutes, rules, regulations and orders of the United States and the State of California and agrees to indemnify the CPUC

and the State against any loss, cost damage or liability by reason of the contractor's violation of this provision.

19. CONFLICT OF INTEREST

- a.) The Provider warrants that neither it nor its subsidiaries and sub-contractors, nor the respective executives and employees of the Provider and its subsidiaries and sub-contractors who have direct decision-making authority connected with the performance under this Agreement, are currently engaged in any relationship that would result in a conflict of interest in the performance of this Agreement. The Provider agrees that it, its subsidiaries and subcontractors, and the respective executives and employees of the Provider and its subsidiaries and sub-contractors who have direct decision-making authority connected with the performance under this Agreement, will refrain from entering into a relationship that results in a conflict of interest during the performance of under this Agreement. The will promptly notify the CPUC Contract Manager of any potential conflict of interest as set forth in this paragraph.
- b.) For purposes of this Section 19, "conflict of interest" means (1) any conflict of interest described elsewhere in this section, such as the actions and behaviors proscribed in the following paragraphs c.) and d.), or elsewhere in this agreement; (2) any conflict of interest prohibited by statutory or regulatory law, and (3) any relationship that would create a financial interest that would encourage the Provider to serve the interest of others in performing this contract, rather than the interests of the CPUC.
- c.) During the Term of this Agreement, the executives and employees who have direct decision-making responsibility with respect to the Provider's performance of this Agreement that are executives and employees of the Provider, its subsidiaries or its sub-contractors will not: (1) offer employment or the promise of future employment, or (2) offer any special benefits, gifts, remuneration and/or entertainment in any amount to any of the following:
 - i.) CPUC staff and/or Commissioners;
 - ii.) CPUC Consultants or Contractors in a management or oversight role concerning this Agreement and/or the services to be provided thereunder, including the DDTP administrative contractor;
 - iii.) The members of any CPUC public advisory committee, including but not limited to DDTP advisory and administrative committees and ad hoc committees, or the State of California Departments of General Services and Finance that control authority over CPUC, DDTP or CRS contracting and fiscal matters.
- d.) During the term of this Agreement the Provider warrants that neither it, nor its subsidiaries and sub-contractors, nor the respective executives and employees of

the Provider, its subsidiaries and sub-contractors who have direct decision-making authority connected with the performance under this Agreement, will obtain an interest in any entity described in Section c) (ii), above.

- e.) The Parties acknowledge that Provider's violation of this Section may be an incident of default under Section 26(a) (iii) of this Agreement. In this event, the Parties' respective rights and obligations, including the requirement that CPUC provide notice to Contractor of such a violation, will be determined in accordance with the section that is presumptively violated; provided however, that in the event that the Parties do not agree that the Contractor has committed a violation of this Section, such disagreement may be resolved in accordance with Section 23 of this Agreement and the cure period described in Section 26 (b) will be extended to allow for the completion of the dispute resolution process as described in Section 23 of the Agreement.

20. COVENANT AGAINST GRATUITIES

The Network Services Provider warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Network Services Provider, or any agent or representative of the Network Services Provider, to any officer, employee or representative of the CPUC with a view toward securing the contract or securing favorable treatment with respect to any determinations concerning the performance of the contract. For breach or violation of this warranty, the CPUC shall have the right to terminate the contract, either in whole or in part, and any loss or damage sustained by the CPUC or the State in procuring on the open market any items that the Network Services Provider agreed to supply, or services to perform, shall be borne and paid for by the Network Services Provider. The rights and remedies of the CPUC or the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

21. INCORPORATION OF REPRESENTATIONS AND WARRANTIES; FURTHER REPRESENTATIONS AND WARRANTIES

This Agreement expressly incorporates the Network Services Provider's representations, certifications and warranties in Exhibits A and B and in other provisions of this Agreement.

The Network Services Provider further represents and warrants:

- a.) The Network Services Provider is a Limited Partnership duly organized, validly existing in good standing under the laws of the State of Delaware. The Network Services Provider has all necessary power and authority under applicable corporate law and its organizational documents to carry on the business as it is described herein.
- b.) The Network Services Provider's has full corporate power and authority to execute, deliver and perform this Agreement. The execution and delivery of this Agreement and performance under this Agreement have been duly and

validly authorized by all necessary corporate action on the part of the Network Services Provider. This Agreement has been duly executed and delivered and attested to by duly authorized officers of the Network Services Provider and is a valid and binding agreement, enforceable against the Network Services Provider in accordance with its terms.

- c.) The Network Services Provider warrants that it has full power and authority to grant the rights herein granted and will hold the CPUC, its contractors and the State, harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, the Provider avers that it will not enter into any arrangement with any third party which might abridge any rights of the CPUC and the State under this Agreement.

22. OWNERSHIP OF THE CRS TOLL-FREE NUMBERS

The CPUC shall retain ownership of all of its current and future CRS 800 (or other toll-free) numbers that will be assigned to the Network Services Provider's network that will be used in fulfilling this contract. Any correlation of retained records identifying users of the toll-free CRS services shall be treated by the Provider with the strictest attention to confidentiality.

23. DISPUTES

(The following section contains language that meets the requirements of GTC304.)

- a.) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Network Services Provider shall submit to the CPUC Contract Manager a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this contract, unless the CPUC, on its own initiative, has already rendered such a final decision. Network Services Provider's written demand shall be fully supported by factual information. If such demand involves a cost adjustment to the contract, the Network Services Provider shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the contract adjustment for which the Network Services Provider believes the CPUC or the State is liable. The CPUC Contract Manager shall provide a written decision on the merits of the appeal within 30-days, unless the issue requires an opinion of the TADDAC or CRSAC, or a decision by the CPUC's Director – Telecommunications Division, which shall also be communicated in writing to the Provider. If the Provider does not receive notice of the decision (or the submission of the issue to the parties above) the Provider may assume that there was an adverse decision. If the Network Services Provider is not satisfied with the decision of the CPUC's Contract Manager, the Network

Services Provider may appeal the decision to the CPUC's Director - Telecommunications Division.

- b.) Pending the final resolution of any dispute arising under, related to, or involving this contract, the Network Services Provider agrees to diligently proceed with the performance of this contract, including the delivery of goods or providing of services in accordance with the CPUC's instructions. Network Services Provider's failure to diligently proceed in accordance with the CPUC's instructions shall be considered a material breach of this contract.
- c.) Any final decision of the CPUC shall be expressly identified as such, shall be in writing, and shall be signed by the CPUC's Director - Telecommunications Division. If the CPUC fails to render a decision within 90 days after receipt of the Network Services Provider's demand, it shall be deemed a final decision adverse to the Network Services Provider's contentions. The CPUC's final decision shall be conclusive and binding regarding the dispute unless the Network Services Provider commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- d.) The parties may request binding arbitration under the rules of the American Arbitration Association, as set out in California Contract Code, within the stipulated timeframe. The CPUC shall have the right to accept or reject a request to enter into binding arbitration. Any dispute resolution action filed shall be in a location convenient to the CPUC.

24. STOP WORK

- a.) The CPUC may, at any time, by written Stop Work Order to the Network Services Provider, require the Network Services Provider to stop all, or any part, of the work called for by this contract for a period of up to 90 days after the Stop Work Order is delivered to the Network Services Provider, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of a Stop Work Order, the Network Services Provider shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of 90 days after a Stop Work Order is delivered to the Network Services Provider, or within any extension of that period to which the parties shall have agreed, the CPUC shall either:
 - i.) Cancel the Stop Work Order, or
 - ii.) Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this contract.

- b.) If a Stop Work Order issued under this clause is cancelled or the period of the Stop Work Order or any extension thereof expires, the Network Services Provider shall resume work. The CPUC shall make an equitable adjustment in the contract price, and the contract shall be modified, in writing, accordingly, if:
 - i.) The Stop Work Order results in an increase in the time required for, or in the Network Services Provider's cost properly allocable to the performance of any part of this contract; and
 - ii.) The Network Services Provider asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if the CPUC decides the facts justify the action, the CPUC may receive and act upon a proposal submitted at any time before final payment under this contract.
- c.) If a Stop Work Order is not cancelled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the CPUC, the CPUC shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- d.) If a Stop Work Order is not cancelled and the work covered by the Stop Work Order is terminated for default, the CPUC may allow, by equitable adjustment or otherwise, reasonable costs resulting from the Stop Work Order.
- e.) The CPUC shall not be liable to the Network Services Provider for loss of profits because of a Stop Work Order.

25. TERMINATION FOR THE CONVENIENCE OF THE CPUC

- a.) The CPUC may terminate performance of work under this contract for its convenience in whole or, from time to time, in part, if the CPUC determines that a termination is in the CPUC's or the public's interest. Termination shall be implemented by delivering to the Network Services Provider a Notice of Termination signed by the CPUC's Director – Telecommunications Division specifying the extent of termination and the effective date thereof. The parties agree that, as to the terminated portion of the contract, the contract shall be deemed to remain in effect until such time as the termination settlement, if any, is concluded and the contract shall not be void.
- b.) After receipt of a Notice of Termination, and except as directed by the CPUC, the Network Services Provider shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Network Services Provider shall:
 - i.) Stop work as specified in the Notice of Termination.
 - ii.) Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continued portion of the contract.

- iii.) Terminate all subcontracts to the extent they relate to the work terminated.
- iv.) Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontract; the approval or ratification of which shall be final for purposes of this clause.

26. TERMINATION FOR DEFAULT

- a.) The CPUC may, subject to the Force Majeure paragraph contained herein, by written notice of default to the Network Services Provider, terminate this contract in whole or in part if the Network Services Provider fails to:
 - i.) Perform services within the time specified in the contract or any amendment thereto;
 - ii.) Make progress, so as to endanger performance of this contract (but see paragraph (b) below); or
 - iii.) Perform any of the other provisions of this contract (but see subparagraph (b) below).
- b.) The CPUC's right to terminate this contract under subparagraphs ii and iii above, may be exercised if the Network Services Provider does not cure such failure. From receipt of written notification by the CPUC of such a failure, the cure timeframe shall be one day if the reported issues are service effecting to more than 10% of any one CRS service, 14-days if the reported issues are service affecting to less than 10% of any one CRS service, 30-days if issues are occasional, sporadic or not service affecting, or the time frame stated in the cure notice issued by the CPUC, whichever term is longer. The timeframe issued in the CPUC's notice may be longer if the issues are deemed by the Contract Manager not to be crucial to management or significantly service affecting. Based on the communications between the Provider and the CPUC during the cure period, the CPUC may extend the timeframe without losing any of its rights under this agreement. The CPUC's Contract Manager shall issue a written release to the Provider as soon as an acceptable resolution to the issue of concern is achieved.
- c.) If the CPUC terminates this contract in whole or in part, it may acquire, under the terms and in the manner the CPUC considers appropriate, goods or services similar to those terminated, and the Network Services Provider will be liable to the CPUC for any excess costs for those services. However, the Network Services Provider shall continue the work that has not been terminated.
- d.) If the contract is terminated for default, the CPUC may require the Network Services Provider to sequester and protect, as directed by the CPUC, any property in its possession in which the CPUC has an interest.

- e.) The CPUC shall pay contract price for completed services delivered and accepted. The Network Services Provider and CPUC shall agree on the amount of payment for services performed and accepted. Failure to agree will be a dispute under the Disputes clause. The CPUC may withhold any sum the CPUC determines to be necessary to protect the CPUC against loss because of outstanding liens or claims of former lien holders.
- f.) If, after termination, it is determined that the Network Services Provider was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the CPUC.
- g.) The rights and remedies of the CPUC and the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

27. FORCE MAJEURE

Neither the CPUC nor the Network Services Provider shall be considered in default in the performance of its obligations under this Agreement to the extent that the performance of such obligations is prevented or delayed by any cause beyond the reasonable control of the affected party which such party could not, by due diligence, have avoided. Such causes, including but not limited to, acts of God or the public enemy, acts of governmental authority in either sovereign or contractual capacity, floods, explosions and riots, shall not relieve the affected party of liability in the event of its failure to use diligence to remedy the situation and remove the cause in an adequate manner and with all reasonable dispatch and to give notice and full particulars of the same in writing to the other parties as soon as possible after the occurrence of the cause that prevented or delayed performance of obligations.

28. RIGHTS AND REMEDIES OF CPUC FOR DEFAULT

- a.) In the event any goods furnished or services provided by the Network Services Provider in the performance of this Agreement should fail to conform to the requirements herein, or to the RFP response submitted by the Network Services Provider, the CPUC may reject the same and it shall become the duty of the Network Services Provider to correct the performance of service(s) provided, without expense to the CPUC.
- b.) In addition to any other rights and remedies the CPUC may have, the CPUC may require the Network Services Provider, at the Network Services Provider's expense, to ship goods via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the Network Services Provider.
- c.) In the event of the termination of the contract, either in whole or in part, by reason of default or breach by the Network Services Provider, any loss or

damage sustained by the CPUC in procuring any items or services which the Network Services Provider agreed to supply shall be borne by the Network Services Provider.

- d.) The CPUC reserves the right to offset the reasonable cost of all damages caused to the CPUC against any outstanding invoices or amounts owed to Network Services Provider or to make a claim against the Network Services Provider therefor.

29. NETWORK SERVICES PROVIDER'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY

- a.) The Network Services Provider shall be liable for damages arising out of injury to the person and/or damage to the property of the CPUC, its employees and contractors, persons designated by the CPUC for training, or any other persons other than agents or employees of the Network Services Provider, designated by the CPUC for any purpose, prior to, during, or subsequent to commencement of the provision of services, provided that the injury or damage was caused by the fault or negligence of the Network Services Provider.
- b.) Network Services Provider shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the Network Services Provider, or for damage to alteration or attachments that may result from the normal operation and maintenance of the goods provided by the Network Services Provider during the contract.

30. LIQUIDATED DAMAGES FOR FAILURE TO MEET PERFORMANCE REQUIREMENTS

The parties acknowledge that in the event of a failure by the Network Services Provider to meet the performance requirements listed in the RFP (Exhibit A), damage shall be sustained by the CPUC and that it is and will be impractical and extremely difficult to ascertain and determine the actual damages which the CPUC will sustain in the event of and by reason of such failure; and the Network Services Provider therefore agrees that it will pay the CPUC for such failures, at the sole discretion of the CPUC, liquidated damages as stipulated herein.

- a.) Liquidated damages may be assessed at \$1,000.00 per day for each incident after implementation, where the Network Services Provider is either:
 - i.) unable to accept incoming CRS calls for a continuous period of 15 minutes or more (through no fault of the Local Exchange Companies [LECs] or the CCS providers), or
 - ii.) unable to deliver incoming CRS calls to any CCS provider for a continuous period of 15 minutes or more (through no fault of the LECs or CCS providers), or

- iii.) unable to accept outgoing CRS calls from CCS providers for a continuous period of 15 minutes or more (through no fault of the LECs or CCS providers), or
 - iv.) unable to deliver outgoing CRS calls received from the CCS providers for a continuous period of 15 minutes or more (through no fault of the LECs or CCS providers).
- b.) Liquidated damages may also be assessed for failure to meet the in-service/cutover date deadline imposed under this Agreement as stipulated in Paragraph 6 for consumer access to CRS, up to \$10,000 per day.
 - c.) Notwithstanding paragraphs a.) and b.) above, the maximum liquidated damages that may be assessed shall be \$10,000 per day (24 hour period beginning at 12:00 midnight Pacific Time).

The sole purpose of liquidated damages is to assure adherence to the performance requirements of the Agreement. Payment of liquidated damages does not relieve the NS vendor of its obligation to perform under this contract. The parties have been agreed upon these liquidated damages as a reasonable estimate of damages. No punitive intention is inherent. Written notification of each failure to meet a performance requirement will be given by the CPUC or its designee to the Network Services Provider.

31. COLLECTION OF DAMAGES (ACTUAL AND LIQUIDATED)

Amounts due the CPUC as actual or liquidated damages may be deducted by the CPUC from any money payable to the Network Services Provider pursuant to the Agreement or otherwise as a debt due the CPUC. The CPUC shall notify the Network Services Provider in writing of any claim for actual or liquidated damages pursuant to this provision at least ten (10) calendar days prior to the date the CPUC deducts such sums from money payable to the Network Services Provider.

32. SEVERABILITY

(The following section contains language that meets the requirements of GTC304.)

The Network Services Provider and the CPUC agree that if any provision of this contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.

33. COMPLETE INTEGRATION

This Contract, including the Request for Proposal and the Network Services Provider's response are intended to be a complete integration and there are no other prior or contemporaneous, different or additional agreements pertaining to the subject matter of the

contract. The DDTP's Request for Proposal is referred to herein as Exhibit A. The Network Service Provider's response is referred to herein as Exhibit B.

34. INDEPENDENT CONTRACTOR

(The following section contains language that meets the requirements of GTC304.)

The Network Services Provider and its agents and employees shall in the performance of this contract, act in an independent capacity and not as officers or employees or agents of the CPUC or the State.

35. CONFIDENTIALITY OF DATA

All financial, statistical, personal, technical and other data and information relating to the CPUC's operation of the California Relay Service (including the content of calls made via the CRS, and CRS caller preference, profile or 711 information) or which are made available to the Network Services Provider in order to carry out this contract, or which become available to the Network Services Provider in carrying out this contract, shall be protected by the Network Services Provider from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the CPUC. If the CPUC deems the methods and procedures employed by the Network Services Provider adequate for the protection of the Network Services Provider's data and information, such methods and procedures may be used, with the written consent of the CPUC, to carry out the intent of this paragraph. The Network Services Provider shall not be required, under the provisions of this paragraph, to keep confidential any data or information that is or becomes publicly available, is already rightfully in the Network Services Provider's possession, is independently developed by the Network Services Provider outside the scope of this contract, or is rightfully obtained from third parties.

36. NEWS RELEASES

Unless otherwise exempted, news releases pertaining to the award of this contract shall not be made without prior written approval of the CPUC.

37. PATENT, COPYRIGHT AND TRADE SECRET INDEMNITY

- a.) The Network Services Provider shall hold the CPUC, its officers, contractors, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the Agreement.
- b.) Consistent with Paragraph 13 of this Agreement, the Network Services Provider may be required to furnish a bond to the CPUC against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.

- c.) Network Services Provider, at its own expense, shall defend any action brought against the CPUC to the extent that such action is based upon a claim that the goods or software used by the Network Services Provider to provide its services or the operation of such goods pursuant to a current version of Network Services Provider supplied operating software infringes a United States patent or copyright or violates a trade secret. The Network Services Provider shall pay those costs and damages finally awarded against the CPUC in any such action. Such defense and payments shall be conditioned on the following:
- i.) That the Network Services Provider shall be notified within a reasonable time in writing by the CPUC of any notice of such claim; and
 - ii.) That the Network Services Provider shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, the CPUC shall have the option to participate in such action at its own expense.
- d.) Should the goods or software, or the operation thereof, become, or in the Network Services Provider's opinion is likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, the CPUC shall permit the Network Services Provider at its option and expense either to procure the right to continue using the goods or software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such goods or software in the provision of services shall be prevented by injunction, the Network Services Provider agrees to make every reasonable effort to procure substitute goods or software. If, in the sole opinion of the CPUC, the return of such infringing goods or software makes the continued provision of services under this Agreement impractical, the CPUC shall then have the option of terminating this Agreement, or applicable portions thereof.
- e.) The contractor shall have no liability to the CPUC under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
- i) The combination or utilization of goods furnished hereunder with equipment or devices not made or furnished by the contractor; or,
 - ii) The operation of equipment furnished by the contractor under the control of any operating software other than, or in addition to, the current version of contractor-supplied operating software; or
 - iii) The modification by the CPUC of the equipment furnished hereunder or of the software; or
 - iv) The combination or utilization of software furnished hereunder with non-contractor supplied software.

- f.) Network Services Provider certifies that it has appropriate systems and controls in place to ensure that CPUC allocated funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- g.) The foregoing states the entire liability of the contractor to the CPUC with respect to infringement of patents, copyrights or trade secrets.

38. HEADINGS

The headings used in this Agreement are for the convenience of reference only and not intended, to any extent for any purpose, to limit or define the text of any paragraph herein.

39. GOVERNING LAW

(The following section contains language that meets the requirements of GTC304.)

This Agreement shall be governed by the laws of the State of California as applied to contracts formed and wholly performed in California, and enforced in and by the courts in the State of California.

40. NONDISCRIMINATION CLAUSE

(The following section contains language that meets the requirements of GTC304.)

- a.) During the performance of this contract, the Network Services Provider and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. The Network Services Provider and its subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Network Services Provider and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. The Network Services Provider and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- b.) The Network Services Provider shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

41. ASSIGNMENT OF ANTITRUST ACTIONS

(The following section contains language that meets the requirements of GTC304.)

Pursuant to Government Code Sections 4552, 4553, and 4554, the following provisions are incorporated herein:

- a.) In submitting a bid to the CPUC, the supplier offers and agrees that if the bid is accepted, it will assign to the CPUC all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, material, or services by the supplier for sale to the CPUC pursuant to the solicitation. Such assignment shall be made and become effective at the time the CPUC tenders final payment to the supplier.
- b.) If the CPUC receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the CPUC any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the CPUC as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.
- c.) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose, and
 - i.) the assignee has not been injured thereby, or
 - ii.) the assignee declines to file a court action for the cause of action.

42. CERTIFICATION CLAUSES

The Contractor Certification Clauses contained in the document CCC 304 are hereby incorporated in this Agreement.

43. FORCED, CONVICT, INDENTURED AND CHILD LABOR

In accordance with PCC Section 6108, Network Services Provider warrants that no foreign-made equipment, materials, or supplies used pursuant to this contract are produced in whole or in part by or with the benefit of forced labor, convict labor, indentured labor

under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor.

44. RECYCLING

(The following section contains language that meets the requirements of GTC304.)

Network Services Provider hereby certifies under penalty of perjury that a percentage (0% to 100%) of the materials, goods, supplies offered or produced used in the performance of this contract meet or exceed the minimum percentage of recycled material as defined in PCC Sections 12161 and 12200.

45. CHILD SUPPORT COMPLIANCE ACT

(The following section contains language that meets the requirements of GTC304.)

The Network Services Provider acknowledges in accordance with PCC Section 7110, that:

- a.) The Network Services Provider recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- b.) The Network Services Provider, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

46. AMERICANS WITH DISABILITIES ACT

Network Services Provider assures the CPUC that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (USC 12101 et seq.)

47. WAIVER

Waiver, whether formal or constructive, by CPUC of strict performance of any provision of this Agreement in any specific instance shall not be deemed a waiver of, nor shall it prejudice CPUC's right to require strict performance of, the same provision or any other provision in the future. The rights and remedies of the CPUC herein are cumulative and are in addition to any other rights or remedies that the CPUC may have in law or equity.

48. MODIFICATIONS TO AGREEMENT

(The following section contains language that meets the requirements of GTC304.)

The CPUC may request, at its sole discretion and by written notice, that certain changes be made to the general scope of work without invalidating this Agreement. No changes in the scope of work shall be made by the Network Services Provider without the prior written approval of the CPUC's Director - Telecommunications Division and the authorized representative of the Provider, notwithstanding orders directed by judicial authority, the Federal Communications Commission or the California Public Utilities Commission. No oral understanding or agreement not incorporated in the contract is binding on any of the parties. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required.

Upon receipt of any such written request from the CPUC's Director - Telecommunications Division for a change to the general scope of work, the Network Services Provider at Network Services Provider's expense shall within a reasonable time thereafter, submit to the CPUC a detailed written price and schedule adjustment to this Agreement. The Network Services Provider shall not begin such work prior to CPUC approval of the modification and associated costs. Nothing stated in this section prohibits the Provider from submitting requests for changes to the CPUC Contract Manager with copies to the CRS administrative contractor and the CPUC Project Manager. The acceptance or rejection of such an offer shall be at the discretion of the CPUC and subject to approval by the CPUC's Executive Director.

This Agreement and all obligations hereunder are subject to all applicable laws, rules, obligations and orders or rulings of any authorized court, agency or commission of federal or California government. This Agreement is subject to changes or modifications that may from time to time be directed by the Federal Communications Commission or the State of California. Any such changes or modifications shall be subject to the procedure set forth in this Agreement.

Changes to specific telecommunications relay service requirements as mandated by the FCC may not necessarily require an amendment to this Agreement, where such new or changed services are within the scope of the general relay services being provided in response to this Agreement and FCC regulations. However, FCC allowed TRS changes that are not mandated but are permissive shall require specific CPUC approval.

49. CONFLICTING DOCUMENTS

To the extent, if any, that this Agreement conflicts with the RFP and/or Network Services Provider's proposal, this Agreement shall take precedence and control. To the extent, if any, that the RFP and the Network Services Provider's proposal conflict, the RFP shall take precedence and control.

50. SAFETY AND ACCIDENT PREVENTION

In performing work under this contract on CPUC or State premises, contractor shall conform to any specific safety requirements contained in the contract or as required by law or regulation. Contractor shall take any additional precautions as the CPUC may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this contract in accordance with the default provisions hereof.

51. PRIORITY HIRING CONSIDERATIONS

The contractor shall give priority consideration in filling vacancies in positions funded by the contract to qualified recipients of aid under Welfare and Institutions Code Section

11200 in accordance with PCC Section 10353.

52. YEAR 2000 COMPLIANCE

Contractor warrants that it will provide only Year 2000 compliant products and/or services to the State in all present and future contracts and that Year 2000 compliant products and/or services meet the following requirements:

- a) For information technology goods and/or services, the contractor warrants and represents that the hardware, software and firmware goods and services delivered under this contract shall be able to accurately process date data (including, but not limited to, calculating, comparing, and/or sequencing) from, into and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations to the extent that other information technology used in combination with the information technology being acquired, properly exchanges date data with it. This warranty and representation is subject to the warranty terms and conditions of this contract. Nothing in this warranty shall be construed to limit any rights or remedies the State may otherwise have under this contract with respect to defects other than Year 2000 performance.
- b) For non-information technology goods, the contractor warrants and represents that the goods delivered under this contract are "Year 2000 compliant". For purposes of this contract, a good is Year 2000 compliant if it will continue to function fully before, at and after the Year 2000 without interruption and, if applicable, with full ability to accurately and unambiguously process, display, compare, calculate, manipulate and otherwise utilize date information. This warranty and representation supersedes all warranty disclaimers and limitations and all limitations on liability provided by or through the contractor.
- c) Resellers must obtain written confirmation from the manufacturer that the goods and/or services are Year 2000 compliant, as defined above.

53. INDEMNIFICATION

(The following section contains language that meets the requirements of GTC304.)

Provider agrees to indemnify, defend and save harmless the CPUC, the State, its officers, agents, contractors and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers and any other person, firm, or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation which may be injured or damaged by contractor in the performance of this contract.

54. WARRANTY

Unless otherwise specified, the warranties contained in this contract begin after acceptance has occurred.

- a) Contractor warrants that goods and services furnished hereunder will conform to the requirements of this contract (including all descriptions, specifications and drawings made a part hereof), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by the State, free from defects in design. The CPUC's approval of designs or specifications furnished by contractor shall not relieve the contractor of its obligations under this warranty.
- b) All warranties, including special warranties specified elsewhere herein, shall inure to the CPUC, its successors, assigns, customer agencies and users of the goods or services.

55. UNION ACTIVITIES

(The following section contains language that meets the requirements of GTC304.)

For all contracts, except fixed price contracts of \$50,000 or less, by signing this agreement Contractor hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this agreement and agrees to the following:

- a) Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
- b) No state funds received under this agreement will be used to assist, promote or deter union organizing.
- c) Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.

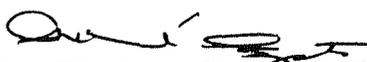
- d) If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from the state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.

56. ENTIRE AGREEMENT; COUNTERPARTS

This Agreement, incorporating Exhibits A and B, constitutes the entire Agreement between the parties. No other Agreement, statement, or promise relating to the subject matter of this Agreement that is contained in this Agreement shall be valid or binding. No changes, alternatives or modifications hereto shall be effective unless in writing and signed by a representative of each party authorized to bind said party. This Agreement may be executed in several counterparts, each of which will be deemed an original and all of which shall constitute one and the same instrument.

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
Sprint Communications Company, L. P.		43-1408007
<i>By (Authorized Signature)</i>		
		
<i>Printed Name and Title of Person Signing</i>		
Anthony G. D'Agata, Vice President & General Manager		
<i>Date Executed</i>	<i>Executed in the County of</i>	
March 25, 2004	Fairfax	

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the

2007, a contractor may require an employee to pay the costs of providing additional benefits that are offered to comply with PCC 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (PCC 10410):

- 1). No officer or employee shall engage in any employment activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC 10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)