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**23. Successors:** *Except as herein specifically provided otherwise, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.*

**24. Notice:** *All notices required to be given by the parties hereunder shall be given by certified or registered mail or other courier through which a signature guarantee is possible to the individuals at the addresses set forth below. Either party may from time to time designate in writing a substitute person(s) or address to whom such notices shall be sent:*

**25. Litigation:** *The Contractor shall promptly notify the State in the event that the Contractor learns of any litigation in which it is a party defendant in a case which involves services provided under this contract. The Contractor, within five (5) calendar days after being served with a summons, complaint, or other pleading which has been filed in any federal or state court or administrative agency, shall deliver copies of such document(s) to the State. The term "litigation" includes an assignment for the benefit of creditors, and filings in bankruptcy, reorganization and/or foreclosure.*

**26. Severability:** *To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.*

**27. Program Policy Statements:** *Contractor may ask the State to issue written policy determinations or operating guidelines required for proper performance under this contract, and State shall respond in writing in a timely manner. Contractor shall rely upon and act in accordance with such policy determinations and operating guidelines, and shall incur no liability in so doing, unless Contractor acts negligently, maliciously, fraudulently or in bad faith.*

**28. Statement of Services:**

- a. *The Contractor is not authorized to change the statement of work delineated within this contract, to take any action which would commit the State beyond the terms of the contract, or to make any change which would affect the price, terms, conditions or scope of the services to be provided without prior State approval.*





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- b. *The State may modify in writing, in the form of a contract amendment, any of the functions, scope, parts hereof, statement of work or any other portion of the original contract. Any such modification to this contract will require the mutual consent of the Contractor. If any modification shall cause an increase or decrease in the cost of the performance of the work under this Agreement, or otherwise affects any other provisions of the contract, a mutually satisfactory adjustment shall be made in the contract price, if appropriate, or the provisions affected by the modification and the contract shall be amended in writing in accordance with State law.*

**29. Remedies:** *The State may exercise the following remedial actions should Contractor substantially fail to satisfy the statement of work outlined in this contract. Substantial failure to satisfy the statement of work shall be defined to mean incorrect or improper activities or inaction by Contractor. Remedial actions are as follows:*

- i. *Withhold payment to Contractor until the necessary services or corrections in performance are satisfactorily completed;*
- ii. *Deny payment or recover reimbursement for those services or deliverables which have not been performed and which due to circumstances caused by Contractor cannot be performed or if performed would be of no value to the State. Denial of the amount of payment shall be reasonably related to the amount of work or deliverable lost to the State;*
- iii. *Terminate the contract for cause in accordance with the Termination clauses of this contract.*

*The rights and remedies of the State provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.*

**30. Termination for Convenience:**

- a. *The performance of services to be provided under this contract may be terminated, in whole or in part, by the State, when for any reason (except the unavailability of monies) the State determines that such termination is in the best interest of the State of Colorado. In the event of such termination, the State will give written notice to the Contractor no less than ninety (90) days prior to the date on which such termination shall be effected.*



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- b. Upon termination for any reason, as provided, the Contractor shall cancel its outstanding commitments hereunder covering subcontracts and the procurement of materials, supplies, equipment, and miscellaneous items applicable to this contract. In addition, the Contractor shall exercise all reasonable diligence to accomplish the cancellation or diversion of its outstanding commitments covering personal services extending beyond the date of termination to the extent they relate to the performance of any work terminated by notice. With respect to such canceled commitments, the Contractor agrees to (1) settle all outstanding liabilities and all claims arising out of such cancellation of commitments, with the approval or ratification of the State, which approval or ratification shall not be unreasonably withheld, and which shall be final for purposes of this clause, or (2) upon request of the State, to assign to the State all the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the State shall have the discretion to settle or pay any or all claims arising out of the termination of such orders or subcontracts or to take such other action as it deems proper.
- c. If the contract is terminated prior to the expiration date herein, the Contractor shall be paid by the State for costs incurred for the remainder of the contract period which are the result of legally binding and irrevocable obligations which the Contractor assumed prior to the notice of termination, and which were necessary and reasonable for performance of Contractor's obligations under this contract.

**31. Termination because of fund unavailability :** The State shall fulfill its obligations under this contract, contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If at any time during the contract term, the State, in its sole discretion, determines that funds shall not be available for the remainder of the term, State shall issue a Termination Notice to Contractor, at least ninety (90) days or more before, stating a fixed Termination Date, after which contract funds will no longer be available. Obligations of the parties hereto shall end as of the Termination Date specified in the Termination Notice, and this contract shall at such time be considered terminated by mutual agreement.





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### 32. Termination for Default:

- a. *The failure of the Contractor to fully comply with any material term, condition, or provision of this contract shall constitute a default by the Contractor. In the event of default, State shall notify the Contractor of the specific act or omission of the Contractor that constitutes default. The Contractor shall have 15 calendar days from the date of receipt of such notice to cure such default. In no event shall the existence of this "grace period" be interpreted to preclude assessment of liquidated damages during the "grace period." In the event of default, and during the above-specified "grace period", performance under this contract shall continue as though the default had never occurred. In the event the default is not cured within the 15-day period and the Contractor has not made adequate progress towards correcting the default in the opinion of the State, State may, at its sole option, terminate the contract for default. Such termination shall be accomplished by written notice of termination forwarded to the Contractor by certified or registered mail, return receipt requested, and shall be effective at the close of business on the date specified in the notice. If it is determined, after notice of default is sent, that the Contractor's failure was due to causes beyond the control of and without error or negligence of the Contractor, the termination shall be determined a termination for convenience.*
- b. *In the event of termination for default, in whole or in part, as provided by this clause, the State may procure, upon such terms and in such manner as the State may deem appropriate, supplies or services similar to those terminated, and the Contractor shall be liable to the State for any excess costs for such similar supplies or services. In pursuing similar services to remedy the default, the State shall use standard competitive procurement procedures appropriate for such a procurement. In addition, the Contractor shall be liable to the State for administrative costs incurred by the State in procuring such similar supplies or services.*

*In the event of a termination for default, the Contractor shall be paid for those deliverables that the Contractor has delivered to State. Payments for completed deliverables delivered to and approved by State shall be at the contract price. Payment for partially completed deliverables delivered to and not yet approved by State shall be in an amount determined by State.*





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**33. Force Majeure:** *Neither the State nor the Contractor shall be considered in default in the performance of its obligations under this contract 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, acts of governmental authority, floods, explosions and riots, shall not relieve such 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 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 obligations.*

**34. Transition to New Vendor:** *At the conclusion of the term of this contract, the Contractor agrees to cooperate with any new vendor for the service and to provide assistance to facilitate the transition of services to the new vendor. Within sixty (60) days of the end of the Contractor's tenure as the provider of TRS for Colorado, the Contractor shall provide the successor provider of TRS with customer database information in compliance with FCC requirements.*

**35. Limitation of Liability:** *Neither party shall be liable to the other party for special or consequential damages, including loss of profits arising from the subject matter of this contract or the conduct of business contemplated by this contract. In addition, Contractor's liability for any claim of any type is limited to the compensation received during the previous twelve months or providing service under this contract. Notwithstanding the above, this limitation of liability clause shall not limit the Contractor's liability for damages or claims arising out of bodily injury (including death) or damage to tangible property.*

**36. Order of Precedence:** *In the event of conflicts or inconsistencies between this contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: Colorado Special Provisions, Colorado General Provisions, Contract, RFP, Contractor's proposal.*



### GENERAL CONTRACT PROVISIONS

COLORADO DEPARTMENT OF REGULATORY AGENCIES - hereinafter, under the General Contract Provisions, referred to as "CDORA".

1. This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to State Fiscal Rules.

2. By signing and submitting this contract the contractor states that:



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- a) *the contractor is in compliance with the requirements of the Drug-Free Workplace Act (Public Law 100-690 Title V, Subtitle D, 41 U.S.C. 701 et seq.);*
- b) *the contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.*

*3. To be considered for payment, billings for payment pursuant to this contract must be received within 60 days after the period for which payment is being requested and final billings on the contract must be received by CDORA within 60 days after the end of the contract term.*

*4. If contractor receives federal funds in an aggregate amount per year from CDORA which exceeds the applicable threshold dollar amount specified in the Office of Management and Budget circulars A -128 or A-133, contractor agrees to have an annual audit, by an independent certified public accountant, which meets the requirements of Office of Management and Budget circular A-128 or A-133, whichever applies. If contractor is required to submit an annual indirect cost proposal to CDORA for review and approval, contractor's auditor will audit the proposal in accordance with the requirements of OMB Circular A-87, A-21 or A-122. Contractor agrees to furnish one copy of the audit reports to the CDORA Accounting Office within 30 days of their issuance, but not later than nine months after the end of contractor's fiscal year. Contractor agrees to take appropriate corrective action within six months of the report's issuance in instances of noncompliance with federal laws and regulations. Contractor agrees to permit CDORA or its agents to have access to its call and billing records as necessary, and further agrees to retain such records for a period of three years after the date of issuance of the audit report. This contract (/DOES NOT) contain federal funds as of the date it is signed. This requirement is in addition to any other audit requirements contained in other paragraphs within this contract.*

*5. Contractor agrees to not use federal funds to satisfy federal cost sharing and matching requirements unless approved in writing by the appropriate federal agency.*

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## Special Provisions

(Not for Use with Inter-Governmental Contracts)

### CONTROLLER'S APPROVAL. CRS 24-30-202 (3)

This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.

### FUND AVAILABILITY. CRS 24-30-202 (5.5)

Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

### INDEMNIFICATION

The Contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

### INDEPENDENT CONTRACTOR. 4 CCR 801-2

THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.

### NON-DISCRIMINATION

The contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

### CHOICE OF LAW

The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.

### VENDOR OFFSET. CRS 24-30-202 (1) & CRS 24-30-202.4

Pursuant to CRS 24-30-202.4 (as amended), the State Controller may withhold debts owed to State agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) owed amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

### SOFTWARE PIRACY PROHIBITION Governor's Executive Order D 002 00

No State or other public funds payable under this Contract shall be used for the acquisition, operation, or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby certifies that, for the term of this Contract and any extensions, the Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this Contract, including, without limitation, immediate termination of the Contract and any remedy consistent with United States copyright laws or applicable licensing restrictions.

### EMPLOYEE FINANCIAL INTEREST. CRS 24-18-201 & CRS 24-60-507

The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

### ILLEGAL ALIENS - PUBLIC CONTRACTS FOR SERVICES. CRS 8-17-5-101 and Public Law 208, 104 Congress, as amended and expanded in Public Law 156, 108 Congress, as amended

The Contractor certifies that the Contractor shall comply with the provisions of CRS 8-17-5-101 et seq. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. It enters into a contract with a subcontractor that knowingly employs or contracts with an illegal alien. The Contractor represents, warrants, and agrees that it has verified that it does not employ any illegal aliens, through participation in the Basic Pilot Employment Verification Program administered by the Social Security Administration and Department of Homeland Security, or if otherwise not comply with the requirements of CRS 8-17-5-101(2)(B)(i). The Contractor shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If the Contractor fails to comply with any requirement of this provision or CRS 8-17-5-101 et seq., the State may terminate this contract for breach and the Contractor shall be liable for actual and consequential damages to the State.

Effective Date: July 1, 2006





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THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

STATE OF COLORADO:  
Bill Owens, Governor

By \_\_\_\_\_  
Legal Name of Contracting Entity  
Executive Director

\_\_\_\_\_  
Social Security Number or FEIN

LEGAL REVIEW:

\_\_\_\_\_  
Signature of Authorized Officer

\_\_\_\_\_  
ATTORNEY GENERAL

By \_\_\_\_\_

\_\_\_\_\_  
Print Name & Title of Authorized Officer

CORPORATIONS:

(A corporate attestation is required)

Attest (Seal) By \_\_\_\_\_  
(Corporate Secretary or Equivalent, or Town/City/County Clerk)(Place corporate seal here, if available)

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided

STATE CONTROLLER

By \_\_\_\_\_  
Date \_\_\_\_\_





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## Sprint's Attachments





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## Attachment A – Letters of Support





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## Attachment B – Standard Features Matrix







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## Attachment C – FCC TRS and *CapTel* Mandatory Minimum Standards & Compliance Matrix





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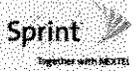
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## Attachment D – TRS and CapTel Customer Database Profile Forms





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## Attachment E – TRS Customer Contact Form and Tally Log





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## Attachment F – Customer Contact Follow-up Letter





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## Attachment G – Network Interconnection Interoperability Forum (NIIF) Standards



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## Attachment H – Carrier-of-Choice Letter for TRS and *CapTel*





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## Attachment I – Confidentiality Policies





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## Attachment J – Initial Relay Operator Tests and Spelling Test







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## Attachment K – Performance Survey





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## Attachment L – ASL Workbook





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## Attachment M – TRS Quick Talk Training





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## Attachment N – Disaster Recovery Plan for TRS, CapTel, RCC and the TRS Network Support Plan





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## Attachment O – Outreach Materials





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## Attachment P – Billing Reports





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## Attachment Q – Relay Operator Training Module Outline





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## Attachment R – Spanish Speaking Listening Proficiency Test in Spanish and the Berlitz Language Proficiency Benchmark-Level Descriptions





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## Attachment 5 – Financial Reports for Sprint and CSD





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## Attachment T – TRS and *CapTel* References





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