



**PARTICIPATING ADDENDUM PURSUANT TO CONTRACT BETWEEN FLORIDA DEPARTMENT OF
MANAGEMENT SERVICES AND AT&T MOBILITY NATIONAL ACCOUNTS LLC
(Contract No. DMS-10/11-008A__)**

This is a Participating Addendum between Broward County, a political subdivision of the State of Florida ("County"), and AT&T Mobility National Accounts LLC ("Service Provider") pursuant to Contract No. DMA-10/11-008A between Service Provider and the Florida Department of Management Services.

A. Service Provider entered into a Mobile Communications Services (MCS) Contract DMS-10/11-008A with the Florida Department of Management Services ("Department"), dated January 13, 2012, for wireless telecommunications services.

B. The County desires to purchase certain mobile cellular devices, including Service Provider cellular plans, and accessories, from Service Provider pursuant to the terms of the Florida Contract as supplemented herein.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. DEFINITIONS

The following terms shall have the following meanings:

1.1 Board. The Board of County Commissioners of Broward County, Florida.

1.2 Contract Administrator. The County's Information Systems Administrator of Infrastructure Services, Enterprise Technology Services, or such person's successor as designated by County in writing.

1.3 Florida Contract. As used herein, "Florida Contract" refers to the Mobile Communications Services (MCS) Contract DMS-10/11-008A between Service Provider and the Florida Department of Management Services, dated January 13, 2012, as well as any amendments; provided, however, that for any amendments entered after the Effective Date of this Addendum, County shall retain the right upon written notice by the Director of Purchasing within sixty (60) days after the effective date of any amendment, to terminate this Addendum for convenience with no penalties or termination fees, at which point all obligations shall cease, and County shall be liable only for those goods or services already received and accepted by County prior to termination of this Addendum.

1.4 All references to the "Department," "State" or any entity or agency of the State of Florida shall be deemed to refer to the County solely for the purpose of this Addendum and all transactions between Service Provider and County pursuant to the Florida Contract or this Addendum.

2. EXHIBITS AND ORDER OF PRECEDENCE

The following exhibits are attached hereto and incorporated into this Addendum:

Exhibit A	Florida Contract
Exhibit B	Insurance Requirements

The Florida Contract as supplemented and amended by this Addendum is incorporated in its entirety as if fully set forth herein. If there is a conflict or inconsistency between any provision contained in the Florida Contract and this Addendum, the provisions of this Addendum shall prevail as to transactions between the County and Service Provider pursuant to this Addendum.

3. ORDERS, ADDITIONAL SERVICES AND COUNTY AUTHORITY

3.1 Orders. At County's request, Service Provider shall issue a quote for any goods or services considered for purchase by County under this Addendum. If so elected by County, County will issue an appropriate purchasing document (which may include a purchase order or P-card transaction) to acquire such goods or services. The prices charged to County for all such goods and services shall be equal to the then-current pricing for such goods and services offered under the Florida Contract.

3.2 Contract Administrator Authority. Unless otherwise expressly stated herein or in the applicable Procurement Code, Code of County Ordinances, or County Code of Administrative Procedure, the Contract Administrator may act on behalf of County to exercise the authority and powers of County under this Addendum.

4. TERM

4.1 Term. The Addendum shall become effective on the date it is fully executed by the parties (the "Effective Date"). The term of the Addendum shall continue for the duration of the Florida Contract (including extensions thereto), unless earlier terminated per the Florida Contract Sections, including without limitation Sections 2.03, 2.04, 2.05 or 2.06.

4.2 Fiscal Year. The continuation of this Addendum beyond the end of any County fiscal year shall be subject to both the appropriation and the availability of funds, in accordance with Chapter 129, Florida Statutes.

5. COMPENSATION

5.1 For the duration of the Addendum, County estimates that the amounts due to Provider under this Addendum shall be approximately \$450,000 annually.

5.2 Method of Billing and Payment. Service Provider may submit invoices for goods provided and services purchased by County under this Addendum. County shall pay Service Provider

within thirty (30) days of receipt of Service Provider's proper invoice, as required by the "Broward County Prompt Payment Ordinance" (Broward County Ordinance No. 89-49). Payment shall be made to Service Provider at the most recent address designated under the "Notices" provision of this Addendum. To be deemed proper, an invoice must comply with all requirements set forth in this Addendum and must be submitted pursuant to any instructions prescribed by the Contract Administrator. County shall have the right to reasonably withhold payment of the disputed amounts in the invoice based on Service Provider's material breach of any term, condition, or requirement of this Addendum. The parties hereto agree that any amounts so withheld shall not be subject to payment of any interest by County.

5.3 Travel. With respect to travel costs and travel-related expenses, if applicable, Service Provider agrees to adhere to Section 112.061, Florida Statutes. County shall not be liable for any such expenses that have not been approved in advance, in writing, by County.

6. NONDISCLOSURE OF SERVICE PROVIDER CONFIDENTIAL INFORMATION

6.1 Public Records Law. As a political subdivision of the State of Florida, County is subject to Florida's Public Records Law, Chapter 119 of the Florida Statutes. Notwithstanding anything else in this Addendum, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119 shall not constitute a breach of this Addendum. To the extent Service Provider is acting on behalf of the County as stated in Section 119.0701, Florida Statutes and to the extent required by law, Service Provider shall comply with the obligations of Section 119.0701 as if fully set forth herein. Notwithstanding the foregoing, in the event a request is made for information pursuant to this provision and the requirements of Chapter 119, the County agrees to use best efforts to provide Service Provider with reasonable written notice and details of such request so that Service Provider, in its discretion and at its sole expense, may seek a protective order or otherwise protect the confidentiality of the requested information.

7. MISCELLANEOUS

7.1 Insurance. Service Provider shall maintain at its sole expense, on a primary basis, at all times during the term of this Addendum (unless a different time period is stated herein), at least the minimum insurance coverage designated in Exhibit B hereto in accordance with the terms and conditions stated in this Section. Such policies shall be issued by companies eligible to transact business in the State of Florida, with a minimum AM Best financial rating of A-, unless otherwise approved in writing by County. If any deductible amounts are permitted in Exhibit B, Service Provider shall be responsible for the payment of all such deductible amounts. Service Provider agrees to include County as an additional insured under Provider's required commercial liability insurance policy and any needed excess liability insurance policy. The listed certificate holder on all required policies shall be "Broward County." Coverage shall be provided on forms no more restrictive than the latest edition of the applicable forms filed by the Insurance Services Office. Within fifteen (15) days of execution of this Agreement, Service Provider shall provide County with proof of insurance in the form of Certificate(s) of Insurance and applicable

endorsements. Failure to timely provide acceptable proof of insurance, as determined by County, shall entitle County to terminate this Agreement without any liability to Service Provider. Service Provider must provide County with at least thirty (30) days' written notice of, cancellation, or non-renewal of any required coverages that is not replaced. To the extent and within the timeframe required by law, Service Provider shall provide a copy of any policies required by Florida law, including without limitation Section 627.4137, upon County's request. If Service Provider subcontracts any work under this Agreement, Service Provider shall endeavor to require that each subcontractor names County as an additional insured under the subcontractor's required general liability insurance policy and any excess liability insurance policy.

7.2 Public Entity Crime Act. Service Provider represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Addendum will not violate that Act. In addition to the foregoing, Service Provider further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Service Provider has been placed on the convicted vendor list. Notwithstanding any provision in this Addendum to the contrary, if any representation stated in this paragraph is false, County shall have the right to immediately terminate this Addendum and recover all sums paid to Service Provider under this Addendum.

7.3 Notices. In order for a notice to a party to be effective under this Addendum, Shall be delivered (a) personally; (b) by certified mail, return receipt requested; (c) by an overnight courier service having a record of receipt; or (d) by facsimile, with a confirming copy sent by one of the other three methods described in this sentence as outlined in Section 15.06 of the Florida Contract. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change.

NOTICE TO COUNTY:

Broward County Enterprise Technology Services
Attn: Information Systems Administrator, Infrastructure Services
1 North University Drive, Suite 4003A
Plantation, FL 33324-2019
Email address: kawolf@broward.org

NOTICE TO SERVICE PROVIDER:

AT&T Mobility National Accounts, LLC
Attn: Contracts
7229 Parkway Drive
Hanover, MD 21076

7.4 Governing Law and Venue. This Addendum shall be interpreted and construed in accordance with, and governed by, the laws of the State of Florida. The parties agree to comply with all applicable laws of the State of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Addendum shall be in the state courts

of the Seventeenth Judicial Circuit in and for Broward County, Florida or, in an appropriate case, in the United States District Court or United States Bankruptcy Court for the Southern District of Florida.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Addendum: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the 7th day of February, 2016, and AT&T MOBILITY NATIONAL ACCOUNTS, LLC, signing by and through its Manager, duly authorized to execute same.

COUNTY

ATTEST:

Betha Kelly
Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

BROWARD COUNTY, by and through
its Board of County Commissioners
By: [Signature]
7th day of February, 2016²

Insurance requirements approved by
Broward County
Risk Management Division:

Approved as to form by
Joni Armstrong Coffey
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: [Signature] 8/11/16
Jacqueline Birns (Date)
Risk Manager

By: [Signature] 8/11/16
René D. Harrod (Date)
Assistant County Attorney

RDH/RBG
2016-07-25 PA to MCS Contract
07/25/16
#16-099.01



AT&T MOBILITY NATIONAL ACCOUNTS, LLC

WITNESSES:

AT&T MOBILITY NATIONAL ACCOUNTS, LLC

E Hedges
Signature

By: [Signature]
Authorized Signor

Elena M. Hedges Account Manager
Print Name of Witness above

Linda J. Cottingham - Sr. Contact Manager
Print Name and Title

Luis Alcaide
Signature

4th day of August, 2016

LUIS ALCAIDE
Print Name of Witness above

ATTEST:
N/A - Not a Corporation
Corporate Secretary or other person
authorized to attest

(CORPORATE SEAL OR NOTARY)

Exhibit A – Florida Contract



RICK SCOTT
Governor

DEPARTMENT OF MANAGEMENT
SERVICES

JOHN P. MILES
Secretary

4050 Esplanade Way | Tallahassee, Florida 32399-0950 | Tel: 850.488.2786 | Fax: 850.922.6149

MOBILE COMMUNICATION SERVICES

AT&T CONTRACT

CONTRACT NO.: DMS-10/11-008A

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- Exhibit 1: Technical Requirements**
- Exhibit 2: Business Process & Operation**
- Exhibit 3: Pricing**
- Exhibit 4: Enhanced Services and Solutions**
- Exhibit 5: SLA Matrix**
- Exhibit 6: Contract No.: 03-STO-ITN-011 (MA4300)**
- Exhibit 7: Discounts**

MOBILE COMMUNICATION SERVICES AGREEMENT

THIS MOBILE COMMUNICATION SERVICES AGREEMENT (“Agreement”), effective as of the last date signed below (the “Effective Date”), is between the Florida Department of Management Services, a State agency with its principal place of business at 4050 Esplanade Way, Suite 200, Tallahassee, FL 32399-0950 (the “Department”), and AT&T Mobility National Accounts LLC D/B/A: AT&T Mobility, a Delaware corporation with its principal place of business at 1025 Lenox Park Blvd NE, Atlanta, GA 30319 (“Service Provider”).

WHEREAS, Service Provider provides wireless voice and data services in certain areas of Florida; and

WHEREAS, the Department issued Invitation to Negotiate No.: DMS-10/11-008 (“ITN”), on September 2, 2010, in order to select a company to provide such services; and

WHEREAS, pursuant to the ITN, the Department has awarded a contract to Service Provider based on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and the promises contained herein, the parties agree as follows:

Contract 1.0 - DEFINITIONS

1.01 Acceptance

Means for purposes of Equipment provided under this Agreement, the date upon which Equipment is received by the Department or End User.

1.02 Business Day

Means Monday through Friday, excluding State observed holidays.

1.03 Business Hours

Means 9:00 A.M. to 5:00 P.M. EST on any Business Day at the office responsible for handling the pertinent interaction between Service Provider and the Department.

1.04 Department

Means the Florida Department of Management Services, acting through its Division of Telecommunications (“DivTel”). The Department is the customer of record under this Agreement.

1.05 End User(s) also referred herein as CRU

Means the individuals using the wireless telecommunications services set forth in Exhibit 1 – Technical Requirements.

1.06 Equipment

Means the wireless receiving and transmitting equipment, Device or SIM (Subscriber Identity Module) Card that Service Provider has authorized to be programmed with a Number or Identifier, and any accessories.

1.07 Events of Default

Means (i) the failure of either party to pay any sum owed to the other hereunder at the time such amount comes due, (ii) the failure of either party to perform or observe any term, condition, or covenant to be performed by it under this Agreement, or (iii) an unauthorized assignment of this Agreement.

1.08 ITN

Means the Department's Invitation to Negotiate identified in the recitals above.

1.09 Service(s)

Means the services provided by Service Provider to the Department under this Agreement, including: (i) the wireless telecommunications services specified in Exhibit 1 (Technical Requirements), (ii) the operational services specified in Exhibit 2 (Business Process and Operations), and (iii) such other services not specifically described in this Agreement but which are inherent in the provisioning of such services.

1.10 Service Account

Means the unique account through which services are offered and charges can be incurred (without regard to who pays). Service Accounts are often associated with a single user and have one-to-one relationships with Mobile Telephone Numbers, Electronic Serial Numbers, Subscriber Identity Modules, Mobile Identification Numbers and/or Device serial number.

1.11 Service Provider

Means the wireless telecommunications company identified in the first paragraph of this Agreement.

1.12 State

Means the State of Florida.

1.13 SUNCOM Client(s)

Means the entity or entities acquiring the wireless telecommunications services set forth in Exhibit 1 from the Department. SUNCOM Clients may include State agencies, the legislative and judicial branches, political subdivisions, counties, cities, municipalities, local school boards, community colleges, universities, educational institutions, certain private non-profit K-12 schools, libraries, qualified commissions and boards, water management districts, certain qualifying non-profit corporations, and other qualifying public agencies or authorities.

Contract 2.0 - TERM OF AGREEMENT

2.01 Initial Term

The initial term of this Agreement shall commence on the Effective Date. As such this contract will expire five (5) years after the effective date, unless sooner terminated in accordance with the provisions herein.

2.02 Renewal Term

Upon mutual agreement, the parties may renew the Agreement, in whole or in part, for renewal terms up to five (5) years. Each renewal shall specify the renewal price as set forth in the ITN response as reflected in Section 6 below. Each renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

2.03 Termination By the Department for Convenience

The Department may terminate this Agreement for convenience upon one hundred eighty (180) days' advance written notice to Service Provider when the Department determines in its sole discretion that it is in the State's interest to do so. In the event of a termination for convenience, Service Provider shall not be entitled to recover any cancellation charges or lost profits. Service Provider shall be paid for all charges incurred up to the date of termination.

2.04 Termination By Service Provider for Unforeseen Circumstances

The Service Provider may deem it necessary from time to time to change or update certain procedures set forth in this Agreement in order to account for unforeseen circumstances or to more efficiently conduct its business. If the Department unreasonably rejects such change or update, then Service Provider may terminate this Agreement upon one hundred eighty (180) days' prior written notice. In the event of a termination pursuant to this Section 2.04, Service Provider shall not be entitled to recover any cancellation charges or lost profits. Service Provider shall be paid for all charges incurred up to the date of termination.

2.05 Termination for Cause

This Agreement may be terminated upon an Event of Default by either party if such Event of Default is not cured by the defaulting party within thirty (30) days of receipt of written notice of the Event of Default. The non-defaulting party shall have the immediate right, without further notice or proceedings, to pursue such remedies and other actions as that party may deem appropriate.

2.06 Termination in Accordance with Section 15.01

Either party may terminate this Agreement in the event the Legislature does not appropriate sufficient funds to cover the Department's obligations hereunder. By executing this Agreement the Department warrants that the Department has funds appropriated and available to pay all amounts due thereunder through the end of the Department's current fiscal period. If the Department terminates an Agreement under this Section the Department agrees it will pay all amounts due for Services incurred through date of termination.

2.07 Transition and Transition Services

Service Provider will have a period of eight (8) months from the date of execution of this Agreement, in accordance with Section 5.02 of the ITN, to complete all transition activities as described in **Exhibit 2**, Business Process & Operations, and to commence providing the services as specified herein (the "Transition Period").

The Transition Period contract processes and requirements are different from those processes and requirements that will govern after the Transition Period ends. As such, it is the desire of the parties that, **for only the Transition Period**, the operational terms and conditions and rates contained in the earlier agreement between the parties for Wireless Data Services, Contract No.: 03-STO-ITN-011 (MA4300), will apply to the provisioning of wireless data services. Those operational terms and conditions and rates are hereby incorporated into this Agreement as **Exhibit 6**.

Upon any termination of this Agreement, the parties shall develop a mutually agreeable plan which will (i) assist the Department and SUNCOM Clients to minimize any impacts resulting from the termination and any transition to a new vendor; and (ii) offer the Services directly to any SUNCOM Client or End User who meets Service Provider's credit requirements and who enters into a contract for service with Service Provider.

2.08 Contract Documents

This Contract, together with the following documents, set forth the entire understanding of the parties with respect to the subject matter. In case of conflict, the terms of the Contract shall control. If a conflict exists among any of these documents, the documents shall have priority in the order listed:

- A. Any Amendments to the Contract.
- B. Contract and **Exhibits 1 - 7**.
- C. ITN No.: DMS-10/11-008, as amended.

Contract 3.0 - PROVISION OF SERVICE

3.01 Generally

Service Provider agrees to provide the Services in accordance with the specifications and requirements set forth in this Agreement. Service Provider may reasonably rely on the authority of any person who executes an order on the Department's behalf. Service is available for purchase only in Service Provider markets, as may be modified by Service Provider from time to time. Service Provider may modify its internal methodologies to purchase, activate, migrate, terminate, or otherwise modify a Service, including without limitation Service Provider's Services and Equipment, to the extent such modifications do not adversely affect the delivery of Services hereunder. Service Provider does not guarantee the Department uninterrupted Service, subject to the Service Level Agreement (SLA) in **Exhibit 5**. Notwithstanding the provisions in Sections 12 and 13 hereunder, Service Provider and Department acknowledge and agree that Section 365.172 (11), Florida Statutes shall control with respect to Limitation of Liability and Indemnification for E911 and 911 Services accessed pursuant to this Agreement. Service Provider cannot assure Department and End User that if an End User places a 911 call, End User will be located. Service Provider and Department upon mutual agreement may block access to certain categories of numbers (e.g., 976, 900 and international destinations). When outside Service Provider's coverage area, access will be limited to information and applications previously downloaded to or resident on Department and End User devices.

3.02 Reports

The reports referenced in **Exhibit 1** and **Exhibit 2** shall be provided by the Service Provider. The Service Provider shall submit reports in electronic format to the Department. The reports shall be due within a timeframe mutually agreed upon between the parties or no later than 30 days following the request from the Department. Any additional ad hoc reports requested by the Department shall be provided by the Service Provider upon mutual agreement of the format and within a timeframe mutually agreed upon between the parties. If these reports are not submitted in a timely manner, the Department shall seek any remedies it may have under Section 14.

3.03 Discounts

See **Exhibit 7** for details regarding discounts available to SUNCOM Clients and employees. Other terms and conditions of this Agreement do not apply to **Exhibit 7**.

3.04 Customer Care Services

Service Provider's standard customer care resources (call centers, website, etc.) shall be available to End Users and SUNCOM Clients for resolution of most Service-related issues.

3.05 No Privy With End Users or SUNCOM Clients

Unless otherwise provided in this Agreement, Service Provider shall not be contractually obligated to the End Users or SUNCOM Clients for the Service and shall not be authorized to send any bills for the Service to such End Users or SUNCOM Clients.

3.06 Right to Deactivation of Unused Accounts

The parties will cooperate to ensure that End User accounts do not lie dormant for extended periods of time (six months or more). Service Provider shall not deactivate such accounts until the Department has been given at least sixty (60) days to investigate and notify the SUNCOM Client. If circumstances warrant, the Department may require Service Provider to postpone the planned deactivation for some identified period of time.

Contract 4.0 - PRICING

4.01 Rates

The full and complete prices for the Services are set forth on **Exhibit 3 - Price**, attached hereto. The pricing, terms and conditions of the Service as defined in **Exhibit 3** depend upon the plan, feature, promotion or other offer selected when Service is activated or changed.

4.02 Rate Increases

The rates set forth on **Exhibit 3 - Price** may not increase during the Initial Term of this Agreement. Thereafter the parties may upon mutual written agreement increase the pricing subject to the following limitations: (i) the Department must be given at least one hundred eighty (180) days' advance written notice of the exact amount of the price increase; and (ii) no more than one price increase may be made in any twelve (12) month period. No retroactive price increases are allowed.

4.03 International Dialing Charges

Unless otherwise instructed by the Department, End Users shall not have the ability to make any calls that will result in international long distance charges. If international calling is enabled, Service Provider may reasonably restrict availability and may charge the Department at Service Provider's standard international long distance rates.

4.04 Metering of Calls

The length of calls is generally measured from the time the End User presses the "SEND" key and ends when the phone device disconnects from Service Provider's facilities or when the End User presses the "END" key if sooner. When airtime is charged for feature use without radio airtime being used (such as Call Forwarding features), measurement is based on switch access time. Airtime and other measured usage ("chargeable time") is billed in full-minute increments, and actual airtime and usage are rounded up to the next full-minute increment at the end of each call for billing purposes. Service Provider will charge a full minute of airtime usage for every fraction of the last minute of airtime used on each wireless call. Unless otherwise provided in **Exhibit 3 - Price** for a particular plan or feature, minutes will be depleted according to usage in the following order: night and weekend minutes, mobile to mobile minutes, Anytime minutes, and rollover, except that minutes that are part of both a limited package and an unlimited package will not be depleted from the limited package.

4.05 Metering of Data Usage

Data transport is calculated in full-kilobyte increments, and data transport is rounded up to the next full-kilobyte increment at the end of each data session for billing purposes. Service Provider will calculate a full kilobyte of data transport for every fraction of the last kilobyte of data transport used on each data session. Transport is billed either by the kilobyte (KB) or megabyte

(MB). If billed by the MB, the full KB's calculated for each data session during the billing period are totaled and rounded up to next full MB increment to determine billing. If billed by KB, the full KBs calculated for each data session during the billing period are totaled to determine billing. Network Overhead, software update requests, email notifications and resend requests caused by network errors can increase measured kilobytes. The Department is responsible for all Wireless Data Service usage sent through Service Provider's wireless network and associated with Equipment. If the Department or a CRU chooses to connect Equipment to a PC for use as a wireless modem, standard Wireless Data Service charges will apply in accordance with the corresponding Plan. Usage on networks not owned by Service Provider is limited as provided in the Department's Wireless Data Service Plan. Unless designated for international or Canada use, Plan prices and included use apply to access and use on Service Provider's wireless network and the wireless networks of other companies with which Service Provider has a contractual relationship within the United States and its territories (Puerto Rico and the U.S. Virgin Islands), excluding areas within the Gulf of Mexico.

4.06 Minimum Monthly Fee (MMF)

Every SUNCOM Client's Service Account will incur a minimum monthly charge (as set in **Exhibit 3 - Price**).

Contract 5.0 - EQUIPMENT

5.01 Responsibility for Obtaining Equipment

SUNCOM Clients and End Users shall be responsible for obtaining the Equipment necessary to use the Services from Service Provider or third parties. The Department may impose reasonable policies respecting such Equipment.

5.02 Network Compatibility

The parties will cooperate to ensure that any Equipment used by End Users in connection with Service meets industry standards and any other reasonable requirements of Service Provider. Service Provider may deactivate service to any Equipment used by an End User that does not meet such requirements or which is otherwise causing network interference. To the extent practicable, Service Provider will advise the Department and the SUNCOM Clients in advance of such deactivations.

5.03 Equipment Sales by Service Provider

Pursuant to this Agreement, Service Provider agrees to offer Equipment (including accessories) to SUNCOM Clients on the following basis:

- (i) **Minimum Discounts:** Pricing shall reflect, at a minimum, the discounts set forth on **Exhibit 3 - Price**.
- (ii) **Promotions:** Service Provider may offer equipment sales promotions to SUNCOM Clients with the Department's consent. If requested, the Department may (but is not required to) assist in publishing these promotions.
- (iii) **Cancellation Fees:** Any applicable term commitments or early cancellation fees will be the responsibility of the Department.
- (iv) **Warranties:** Service Provider agrees to pass through to SUNCOM Clients any and all Equipment vendor warranties (including battery) to the fullest extent allowed under applicable law.

- (v) Americans with Disabilities Act: Service Provider shall identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.
- (vi) U.S. Export Control: The Department is solely responsible for complying with U.S. Export Control laws and regulations and the import laws and regulations of foreign countries when CRUs are traveling internationally with the Department's Equipment.

5.04 Equipment Lists and Catalogs

The parties will cooperate in updating the Equipment lists and catalogs set forth in Service Provider's response to the ITN. These updated lists and catalogs (with applicable pricing) shall be made available for viewing and ordering by SUNCOM Clients in accordance with **Exhibit 2 – Business Process and Operation**. Service Provider shall provide the Department with reasonable advanced notice (i.e., prior to the effective date) of any Equipment included in the lists and catalogs which will be discontinued. Service Provider shall make reasonable efforts to notify the Department as requested.

5.05 Reports of End User Equipment

To Be Provided To The Department. Service Provider will provide the Department with monthly reports as described in **Exhibit 2 – Business Process and Operation**.

Contract 6.0 - BUSINESS PROCESS AND OPERATIONS

6.01 Generally

The initial business processes and operational requirements applicable to this Agreement are set forth on **Exhibit 2 – Business Process and Operation**. The parties shall cooperate to make reasonable clarifications, modifications, additions or deletions to these requirements from time to time based on changing circumstances and/or the desire for better efficiencies. By the end of the Development and Preparation Phase contemplated in **Exhibit 2 – Business Process and Operation**, the parties will organize and set forth the requirements in a comprehensive Operational Guide which each party will follow in good faith. Changes in the Operational Guide may be accomplished and implemented by mutual agreement without a formal amendment to the Agreement.

6.02 Escalation Requirements

Service Provider's escalation procedure and contact list to be used for unresolved SUNCOM Client problems, unresolved network problems, or problems not being resolved in a timely manner shall include names, titles, and phone numbers of contacts in Service Provider's escalation chain.

AT&T Mobility - Sales Escalation List

Name	Title	Email	Phone
Jimmy Gwynn	Government Account Manager	jg123r@att.com	(850) 228-3565
Danny Thomas	Sales Manager	dt8011@att.com	(850) 216-3553
Rusty Rhodes	Executive Sales Director	rr1722@att.com	(407) 245-2100
John Stuhrenburg	Vice President Government Education East	js5021@att.com	(404) 927-7020

6.03 Authorized Representatives

Immediately upon execution of this Agreement, Service Provider shall notify the Department of its authorized representatives for purposes of giving and receiving the notices provided for under this Section 6 and any other Service orders, including those which involve the activation, change, or discontinuance of Service. The notice of appointment, and the authority of the representative, shall remain effective until the notice is canceled or amended by the party for which such representative is acting.

The Department's authorized representatives are as follows:

A. Contract Administrator

The employee primarily responsible for administrative duties relating to the Agreement, such as maintaining the Contract file and financial information on this Contract, and will serve as the liaison with the Contractor's Contract Manager and Department.

Christina Espinosa, FCCN, FCCM
Purchasing Analyst
Departmental Purchasing
Florida Department of Management Services
4050 Esplanade Way, Suite 380.9z
Telephone: (850) 410-2404

The Department may appoint a different Contract Administrator, Contract Manager and/or SUNCOM Product Manager without an amendment to the Agreement, by sending written notice to Service Provider.

B. Contract Manager

The employee primarily responsible for overseeing each party's performance under to the terms of this Agreement. Any communication from the Contractor to the Department relating to the Agreement shall be copied to the Contract Manager.

Jonathan Rakestraw
Division of Telecommunications
Department of Management Services
4030 Esplanade Way, Suite 115
Tallahassee, Florida 32399-0950
Telephone: (850) 921- 0857 / Fax: (850) 921- 5162
E-mail: jonathan.rakestraw@dms.myflorida.com

C. SUNCOM Product Manager

The employee primarily responsible for overseeing the technical requirements for this Agreement.

Raghib Qureshi
Division of Telecommunications
Department of Management Services
4030 Esplanade Way, Suite 125J
Tallahassee, Florida 32399-0950
Telephone: (850) 413-0319
E-mail: raghib.queshi@dms.myflorida.com

Contract 7.0 - TERMS OF PAYMENT

7.01 Invoicing of Charges

Invoicing shall comply with the terms and conditions set forth in **Exhibit 2 – Business Process and Operation** attached to this Agreement.

7.02 Payment of Charges

Payment shall be made in accordance with State law, including Sections 215.422 and 287.0585, Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to Service Provider due to preparation errors will result in a delay in payment. The Department is solely responsible for all charges billed under this Agreement, whether or not a SUNCOM Client has paid the Department for such charges.

7.03 Transaction Fee

The State has instituted MyFloridaMarketPlace, a statewide eProcurement System (“System”). Pursuant to Section 287.057(23), Florida Statutes, all payments shall be assessed a Transaction Fee of one percent (1.0%), which Service Provider shall pay to the State, unless exempt pursuant to Rule 60A-1.032, F.A.C.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to Service Provider. If automatic deduction is not possible, Service Provider shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Service Provider certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

Service Provider shall receive a credit for any Transaction Fee paid by Service Provider for the purchase of any item(s) if such item(s) are returned to Service Provider through no fault, act, or omission of Service Provider. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to Service Provider’s failure to perform or comply with specifications or requirements of the Agreement.

Failure to comply with these requirements shall constitute grounds for declaring Service Provider in default and recovering re-procurement costs from Service Provider in addition to all outstanding fees. SERVICE PROVIDERS DELINQUENT IN PAYING TRANSACTION FEES MAY BE SUBJECT TO BEING REMOVED FROM THE DEPARTMENT’S VENDOR LIST AS PROVIDED IN RULE 60A-1.006, F.A.C.

7.04 Taxes ; Regulatory Surcharges

The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on Service Provider or for any taxes levied on employees’ wages.

The Department agrees to pay the following charge:

- (i) **Federal Universal Services Fund Surcharge** (does not apply to data plans, texting/messaging plans or internet services)
- (ii) Intrastate Rate = 4.2942% (applies to intrastate charges such as the monthly voice plan and to international roaming voice charges)
- (iii) Interstate Rate = 14.9% (applies to interstate & international toll charges)

The Department understands and agrees that state and federal universal service fees whether or not assessed directly upon the Department may be increased/decreased based upon the government's calculations.

7.05 Disputed Charges

Disputed charges shall be handled in the manner set forth in **Exhibit 2 – Business Process and Operation** and pursuant to Section 215.422, Florida Statutes, and Rule 60FF-2, Florida Administrative Code. The Department will have 180 days to reply to Service Provider on any disputed charges. AT&T requires two billing cycles to resolve disputed charges and respond to the Department with the results of the resolution.

7.06 Proration of Charges

Monthly fees for billing periods of less than one month will be prorated based on the actual number of days in such periods.

7.07 Charges Resulting from Lost or Stolen Devices

In the event an End User's or SUNCOM Client's voice or data transmitting device ("Device") is lost, stolen, or otherwise absent from the End User's or SUNCOM Client's possession or control, the Department shall nevertheless be liable for all charges attributable to the Device until it or the End User or SUNCOM Client notifies Service Provider during Business Hours of such loss, theft, or unauthorized absence, in which case the Department's liability therefore shall terminate at the earlier of (i) deactivation of the Device by Service Provider, or (ii) the end of four (4) Business Hours after such notification is received by Service Provider. Service Provider shall use reasonable efforts, taking into account all circumstances which shall include other operational demands placed upon its employees, to deactivate Service to the Device affected as soon as practicable. If the Department advises that service should be suspended, the Department is liable for the Monthly Recurring Charge (MRC). If the Department advises that service should be cancelled, charges will be pro-rated for the monthly charges.

7.08 Right of Offset

The Department may, in addition to other remedies available at law or equity and upon notice to Service Provider, retain from amounts due Service Provider such monies as may be necessary to satisfy any claim arising under (i) this Agreement, or (ii) any other liability or obligation of Service Provider or its affiliates to the State of Florida.

Contract 8.0 - THE DEPARTMENT'S OBLIGATIONS

8.01 Trained Staff

The Department shall provide an adequate and properly trained staff to receive and investigate any complaints from its End Users or SUNCOM Clients relating to Service, and will report any trouble to Service Provider with respect to Service only upon reasonable verification that such trouble is due to reasons other than the misuse or malfunctioning of the End User's or SUNCOM Client's equipment or the failure of such equipment to meet the technical standards for compatibility with Service.

8.02 Responsibility for Actions or Omissions

The Department shall be solely responsible for all costs and expenses incurred in connection with its actions or omissions in the sale of Service or otherwise relating to this Agreement. The Department shall act in all respects on its own account, and shall be solely responsible for such things as billing, collection and, except as provided in Section 11 and **Exhibit 1 – Technical Requirements**, abuse or fraudulent use of any element of the Service, whether by the

Department's employees or agents of the Department, an End User or a SUNCOM Client, or any third party (excepting only actions by Service Provider, Service Provider's agent or Service Provider's employees), provided Service Provider has followed the Department's instructions under this Agreement with respect to such use.

8.03 Responsibility for Agents

The Department is responsible for the performance of its agents, if any, and shall ensure that its agents are in compliance with any applicable terms of this Agreement and any other applicable industry standards, rules and regulations.

8.04 No Rights to Service Provider's Facilities or Intellectual Property

No provision of this Agreement shall be construed as vesting in the Department any control, ownership or rights in any facilities, operations or intellectual property of Service Provider.

8.05 Use of Software

The pre-installed/embedded software, interfaces, documentation, data, and content provided on any device purchased and designed for use exclusively on Service Provider's system as may be updated, downloaded, or replaced by feature enhancements, software updates, system restore software or data generated or provided subsequently by Service Provider (hereinafter "Software") is licensed, not sold, to the Department by Service Provider and/or its licensors/suppliers for use only on such device. For the avoidance of doubt, Software does not include any Service Provider or third-party software sold separately to the Department by Service Provider. The Department and End Users are not permitted to use the Software in any manner not authorized by this License. The Department and End Users may not (and agree not to enable others to) copy, decompile, reverse engineer, disassemble, reproduce, attempt to derive the source code of, decrypt, modify, defeat protective mechanisms, combine with other software, or create derivative works of the Software or any portion thereof. The Department and End Users may not rent, lease, lend, sell, redistribute, transfer or sublicense the Software or any portion thereof. The Department and End Users agree the Software contains proprietary content and information owned by Service Provider and/or its licensors/suppliers. Service Provider and its licensors/suppliers reserve the right to change, suspend, terminate, remove, impose limits on the use or access to, or disable access to, the Software at any time without notice and will have no liability for doing so. The Department acknowledges that Service Provider's Software licensors/suppliers are intended third party beneficiaries of this license, including the indemnification, limitation of liability, disclaimer of warranty provisions found in this Agreement.

8.06 Software or Applications

Any Software or application licensed separately by Service Provider or its third party supplier to the Department and/or its CRUs for use with the Service will be governed by the written terms and conditions applicable to such Software or application, notwithstanding Section 15.17. Title to such Software or application remains with Service Provider or its supplier.

8.07 Notice to End Users and SUNCOM Clients

The parties will cooperate in advising each End User and SUNCOM Client of the following:

- (i) The availability of the Service is not assured at all times or places;
- (ii) The privacy of the Service is not assured at all times or places;
- (iii) End Users and SUNCOM Clients have no contractual relationship with Service Provider with respect to the Service; and
- (iv) Any liability Service Provider might have to an End User or a SUNCOM Client for the Service shall not exceed the liability Service Provider would have if the End User or

SUNCOM Client was a direct customer of Service Provider and had agreed to Service Provider's standard terms and conditions.

- (v) Service Providers directory assistance service (411) may use the location of Equipment to deliver relevant customized 411 information based upon an End User's request for a listing or other 411 service. The Department understands, and will advise all of its CRUs, that by using this directory assistance service, the CRU is consenting to Service Providers use of the CRU's location information for such purpose.

The above notice requirements may be satisfied by a reasonably placed posting on the Department's SUNCOM website. The Parties shall mutually develop the appropriate language to be placed on the website.

8.08 Protection of Service Provider Marks

The Department recognizes the right, title, and/or interest of Service Provider (through ownership or license) to all service marks, trademarks, and trade names owned by or used by Service Provider (the "Marks"). The Department agrees not to, directly or indirectly, contest or otherwise impair such right, title, and interest of Service Provider. The Department has no rights, and shall not acquire any right, title or claim to the Marks, shall not use any Marks, and shall not use Service Provider or any trademarks or trade names of Service Provider, directly or indirectly, without the prior written consent of Service Provider.

8.09 Intellectual Property

The Department will respect the intellectual property rights of Service Provider, Service Provider's third-party content providers, and any other owner of intellectual property whose protected property may appear on any website and/or dialogue box controlled by Service Provider or accessed through Service Provider's websites. Except for material in the public domain, all material displayed in association with the Service is copyrighted or trademarked. Except for personal, non-commercial use, trademarked and copyrighted material may not be copied, downloaded, redistributed, modified or otherwise exploited, in whole or in part, without the permission of the owner. The RIM and BlackBerry families of related marks, images and symbols are the exclusive properties and trademarks or registered trademarks of Research In Motion Limited - used by permission. Good, the Good logo and GoodLink are trademarks of Good Technology, Inc., in the United States and/or other countries. Good Technology, Inc., and its products and services are not related to, sponsored by or affiliated with Research In Motion Limited. All other marks contained herein are the property of their respective owners and all rights are reserved. AT&T and AT&T logo and all other marks contained herein are trademarks of AT&T Intellectual Property and/or AT&T affiliated companies. Apple iPhone: TM and © 2010 Apple Inc. All rights reserved. Apple is a trademark of Apple Inc., registered in the U.S. and other countries. iPhone is a trademark of Apple Inc.

Contract 9.0 - SERVICE PROVIDER'S OBLIGATIONS

9.01 Notice of Material Changes in Service

Service Provider agrees to provide timely and reasonably detailed notice to the Department (based on circumstances present) of any material changes in Service of either a permanent or temporary nature.

9.02 Planned outages

To the extent practicable, the Service Provider shall send a popup, text message, or other type communication which informs the Department of the anticipated outage date, time, and duration

9.03 Department Test Accounts

Service Provider shall furnish up to ten (10) voice and up to ten (10) data (including equipment, voice airtime, and data transmit) wireless devices for use by the Department as test accounts. The test accounts shall be used to perform evaluation testing for the life of the awarded contract. The test accounts and devices shall be furnished at no cost.

9.04 Security and Confidentiality

- A. The Service Provider shall comply fully with all security procedures, laws and regulations of the United States, State and the Department in performance of the Agreement.
- B. The Service Provider (and any person or entity obtaining information through Service Provider) shall not divulge to any third parties any confidential information obtained by Service Provider or its agents, subcontractors or employees in the course of performing the Services. Such confidential information shall include but not be limited to, End User phone numbers, usage records, location information and other forms of identification of End User, security procedures, business operations information, or commercial proprietary information of the State, the Department, a SUNCOM Client or an End User. The Service Provider shall not be required to keep confidential any information or material that is publicly available through no fault of Service Provider, material that Service Provider developed independently without relying on the State's or SUNCOM Client's confidential information, or material that is otherwise obtainable under State law as a public record. To ensure confidentiality, Service Provider shall take appropriate steps as to its personnel, agents, and subcontractors. The terms of this paragraph shall survive the termination of this Agreement.

9.05 Security Service

Provider does not guarantee security with respect to wireless transmissions or the Equipment provided hereunder. If End Users use Equipment to access email or information, it is the Department's responsibility to ensure that such use complies with the Department's internal IT and security procedures.

9.06 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE)

Section 946.515(2), Florida Statutes, requires the following statement to be included in this Agreement: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Agreement shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in sections 946.515(2) and (4) of the Florida Statutes; and for purposes of the Agreement the person, firm, or other business entity carrying out the provisions of the Agreement shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.

9.07 Products Available from the Blind or Other Handicapped. Section 413.036(3), Florida Statutes

Section 413.036(3), Florida Statutes, requires the following statement to be included in this Agreement: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in sections 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the

provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

9.08 E-Verify Employment Eligibility Verification

Pursuant to State of Florida Executive Orders Nos.: 11-02 and 11-116, Contractor is required to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by Contractor during the contract term. Also, Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the state contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the contract term.

Contract 10.0 - ABUSIVE OR FRAUDULENT USE OF THE SERVICES

10.01 Fraud

If Service Provider reasonably suspects that any Service is being abused or used for fraudulent purposes, Service Provider reserves the right to terminate such Service to the End User immediately. In those instances, the Department shall have no liability for abuse or fraudulent use charges incurred after Service Provider's suspicion occurred. Service Provider shall use reasonable efforts during Business Hours to provide advance notice of termination of Service.

10.02 Minimize Abuse

The Department agrees to (i) make good faith efforts to minimize abuse or fraudulent use, (ii) promptly report any suspected abuse or fraudulent use to Service Provider, and (iii) cooperate in any investigation or prosecution initiated by Service Provider. Service Provider may require the Department to cancel the right to use Service by any of its End Users or SUNCOM Clients abusing or fraudulently marketing or using Service.

10.03 Suspected Abuse or Fraudulent

If Service Provider gives the Department notice of suspected abuse or fraudulent use prior to termination of Service, the Department shall be liable for all abuse or fraudulent charges, costs or damages incurred more than twenty-four (24) hours (or such shorter period as Service Provider specified) after Service Provider provides such notice, unless the Department has instructed Service Provider in writing to terminate Service within twenty-four (24) hours (or such shorter period as Service Provider specifies) of receiving Service Provider notice.

10.04 Fraudulent Use of Services

If the Department at any time suspects that any Service may be, has been or is being used for abuse or fraudulent purposes, the Department shall be liable for all costs or charges incurred until four (4) Business Hours after the Department notifies Service Provider to terminate Service under Section 2.05.

10.05 Damages Resulting From Any Unauthorized Use

Any charges, costs or damages resulting from any unauthorized use of Service that were not caused by the actions or inactions of the Department, or an End User shall be the liability of Service Provider.

10.06 Interrupt or Terminate Service

Upon notice to Department, Service Provider may interrupt or terminate Service if Service Provider determines that the End User's use of the Service infringes intellectual property rights.

Contract 11.0 - NO WARRANTIES

SERVICE PROVIDER HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF WHATSOEVER NATURE RELATING TO THE SERVICE, SOFTWARE OR ANY EQUIPMENT PROVIDED UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE.

TO THE EXTENT SERVICE PROVIDER PROVIDES ACCESS TO INFORMATION PROVIDED BY OTHER SOURCES, SERVICE PROVIDER ACCEPTS NO LIABILITY FOR AND MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONTENT THEREOF.

Contract 12.0 - LIMITATIONS OF LIABILITY

SERVICE PROVIDER'S LIABILITY FOR DAMAGES OR COSTS ARISING FROM ERRORS, OUTAGES, OR FAILURES OF SERVICE, LACK OF SECURITY IN USE OF SERVICE, OR DEFECTS OR MALFUNCTIONS OF THE FACILITIES, OCCURRING IN THE COURSE OF PERFORMING UNDER THIS AGREEMENT, REGARDLESS OF THE LEGAL BASIS, FOR SUCH CLAIM, SHALL IN ANY EVENT BE LIMITED TO AN AMOUNT EQUAL TO THE PROPORTIONATE CHARGE TO THE DEPARTMENT FOR THE PERIOD OF SERVICE DURING WHICH SUCH ERRORS, OUTAGES, FAILURES, DEFECTS, OR MALFUNCTIONS OF EQUIPMENT OCCUR, SUBJECT TO THE ADDITIONAL LIMITATIONS BELOW. THE ABOVE LIMITATION DOES NOT INCLUDE ANY POTENTIAL LIABILITY FOR INTENTIONAL TORTS.

NO PARTY SHALL BE LIABLE TO ANOTHER FOR SPECIAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST DATA OR RECORDS (EXCEPT TO THE EXTENT THE SERVICE PROVIDER IS REQUIRED TO BACK-UP DATA OR RECORDS), EVEN IF THE PARTY HAS BEEN ADVISED THAT SUCH DAMAGES ARE POSSIBLE. NO PARTY SHALL BE LIABLE FOR LOST PROFITS, LOST REVENUE, OR LOST INSTITUTIONAL OPERATING SAVINGS.

THE DEPARTMENT ACKNOWLEDGES THAT SERVICE IS MADE AVAILABLE TO EQUIPMENT ONLY WHEN THE EQUIPMENT IS WITHIN OPERATING RANGE OF THE FACILITIES LOCATED WITHIN THE WIRELESS SYSTEM. SERVICE MAY BE TEMPORARILY REFUSED, INTERRUPTED OR LIMITED FOR MANY REASONS. INDIVIDUAL CONNECTIONS MAY BE "DROPPED" (I.E., INVOLUNTARILY DISCONNECTED) FOR A VARIETY OF REASONS AS WELL. SERVICE PROVIDER SHALL INCUR NO LIABILITY FOR ITS INABILITY TO PROVIDE ADEQUATE SERVICES HEREUNDER IF SUCH INABILITY IS DUE TO THE LACK OF NETWORK COVERAGE, NETWORK CAPACITY, OR TO CAUSES BEYOND THE SERVICE PROVIDER'S REASONABLE CONTROL. NOR SHALL SERVICE PROVIDER BE RESPONSIBLE FOR ANY ACT OR OMISSION RELATED TO THIRD PARTY EQUIPMENT OR SYSTEMS USED IN CONNECTION WITH THE SERVICE.

WIRELESS SYSTEMS USE RADIO CHANNELS TO TRANSMIT VOICE AND DATA COMMUNICATIONS OVER A COMPLEX NETWORK, AND PRIVACY CANNOT BE GUARANTEED.

SO LONG AS THE SERVICE PROVIDER HAS TAKEN REASONABLE PRECAUTIONS AND COMPLIED WITH THE TERMS OF THIS AGREEMENT, THE DEPARTMENT AGREES THAT SERVICE PROVIDER SHALL NOT BE LIABLE TO THE DEPARTMENT OR TO END USERS FOR ANY SUCH LACK OF PRIVACY.

FOR ALL CLAIMS AGAINST SERVICE PROVIDER RELATING TO THE SERVICES PROVIDED UNDER THIS AGREEMENT, AND REGARDLESS OF THE BASIS ON WHICH THE CLAIMS ARE MADE, THE SERVICE PROVIDER'S LIABILITY FOR DIRECT DAMAGES SHALL BE LIMITED TO \$1,000,000.

THESE LIMITATIONS SHALL NOT APPLY TO CLAIMS ARISING UNDER THE INDEMNIFICATION PROVISIONS IN THIS AGREEMENT, OR UNDER SECTIONS 15.9 (COMPLIANCE WITH LAWS) OR 15.10 (E-RATE) OF THIS AGREEMENT.

Contract 13.0 - INDEMNIFICATION

13.01 Indemnification

Service Provider shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State, the Department, the SUNCOM Clients and the End Users, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to the a breach of this Agreement by Service Provider. However, the foregoing shall not apply for that portion of any loss or damages proximately caused by the negligent act or omission of the State, the Department, a SUNCOM Client or an End User.

13.02 Conditions to Indemnification

Service Provider's obligations under the preceding paragraph with respect to any legal action are contingent upon the party seeking indemnification giving Service Provider (i) written notice of any action or threatened action, (ii) the opportunity to take over and settle or defend any such action at Service Provider's sole expense, and (iii) reasonable assistance in defending the action at Service Provider's sole expense. Service Provider shall not be liable for any settlement or compromise made by the State, the Department, a SUNCOM Client or any End User in any legal action without Service Provider's prior written consent, which shall not be unreasonably withheld.

Contract 14.0 - DISPUTES

- A. For other than billing disputes, prior to the initiation of any action or proceeding under this Agreement to resolve disputes between the parties, the parties shall make a good faith effort to resolve any such disputes by negotiations between their respective representatives having decision-making authority. If the designated representatives cannot resolve the dispute, then the dispute shall be escalated to the Director of the Division of Telecommunications and the Service Provider's Sales Manager, for their review and resolution. If the dispute is not resolved at that level, the dispute shall then be escalated to the Secretary of Department and the Service Provider Executive Sales Director, for their review and resolution. If the dispute cannot be so resolved, then either Party may initiate formal proceedings; however, formal proceedings may not be commenced until the earlier of:

1. the designated representatives concluding in good faith that amicable resolution through continued negotiation of the matter in issue does not appear likely; or
 2. thirty (30) days after the initial request to negotiate such dispute; or
 3. thirty (30) days before the statute of limitations governing any cause of action relating to such dispute would expire.
- B.** If the dispute cannot be resolved in the manner described in Section XIV (a) above the dispute shall be decided by the Department's Contract Manager, who shall reduce the decision to writing and serve a copy on Service Provider. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, Service Provider files with the Department a petition for administrative hearing. The Department's decision on the petition shall be final, subject to Service Provider's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to Service Provider's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

Without limiting the foregoing, the exclusive venue of any legal or equitable action that arises out of or relates to the Agreement shall be the appropriate State court in Leon County, Florida; in any such action, Florida law shall apply and the parties waive any right to jury trial.

Contract 15.0 - MISCELLANEOUS

15.01 Annual Appropriations

The State's performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.

15.02 Waiver

The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. No claimed waiver by Service Provider of any rights, remedies or options will be binding unless the same is in a writing signed by Service Provider.

15.03 Public Records

The Department may terminate this Agreement if Service Provider refuses to allow public access to all documents, papers, letters, or other material made or received by Service Provider in conjunction with this Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), Florida Statutes.

15.04 Contractual Obligations

Neither party is authorized to act as an agent for, or legal representative of, the other party, nor shall either party have authority to assume or create any obligation on behalf of, in the name of, or that shall be binding upon, the other party.

15.05 No Subcontracting

The Service Provider may not subcontract any of the Services without the Department's prior written consent, which consent shall not be unreasonably withheld. The Service Provider shall not be released of its contractual obligation to the Department because of any subcontract.

15.06 Notices

Except as otherwise provided in this Agreement, all notices required or permitted to be given hereunder shall be in writing and shall be delivered (a) personally; (b) by certified mail, return receipt requested; (c) by an overnight courier service having a record of receipt; or (d) by facsimile, with a confirming copy sent by one of the other three methods described in this sentence. Notices shall be addressed as follows:

- (a) If to Department, notice shall be sent to the Contract Administrator and the Contract Manager (see Section 6.03 above).
- (b) If to Service Provider: notice shall be sent to the Government Account Manager and the Sales Manager (see Section 6.02 above).

Any party hereto may change its address by a notice given to the other party hereto in the manner set forth above. All notices shall be effective on receipt.

15.07 Force Majeure

Each party's performance under this Agreement shall be excused if such nonperformance is due to labor difficulties, governmental orders, civil commotion, acts of nature, weather disturbances or adverse weather conditions, and other circumstances beyond the party's reasonable control.

15.08 Ethical Responsibilities

Each party shall be governed in all its dealings with respect to this Agreement by the highest standards of honesty, integrity, and fair dealing.

15.09 Compliance With Laws

Service Provider and the Department shall at all times comply in all material respects with all laws, rules, codes, ordinances, and licensing requirements and regulations applicable to the performance of this Agreement and the conduct of their business, including those of federal, State, and local agencies having jurisdiction and authority. By way of non-exhaustive example, Chapter 287, Florida Statutes, and Chapters 60A-1 and 60FF, Florida Administrative Code, governs the Agreement. By way of further non-exhaustive example, Service Provider shall comply with Section 247A(e) of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violation of such laws shall be grounds for Agreement termination.

For additional information regarding SUNCOM rules and statutes, please reference the following link: http://dms.myflorida.com/suncom/suncom_customer_resources/rules_and_statutes.

15.10 E-Rate

The Schools and Libraries Program of the federal Universal Service Fund, commonly known as "E-Rate," is administered by the Universal Service Administrative Company (USAC), through its Schools and Libraries Division (SLD), under the direction of the Federal Communications Commission (FCC). The program provides discounts to assist most schools and libraries in the United States to obtain affordable eligible telecommunications, Internet access, and internal connections. SUNCOM Clients who have applied for E-Rate funding for eligible services and equipment from Service Provider are referred to herein as "E-Rate SUNCOM Clients."

Service Provider must have obtained or applied to obtain a Service Provider Identification Number (SPIN) from USAC prior to execution of the Agreement and shall provide relevant SPIN(s) to the Department. Service Provider also is required to submit a Service Provider Annual

Certification (SPAC) (Form 473) to USAC each funding year to certify that it will comply with E-Rate rules and regulations. Service Provider shall maintain eligibility as an E-Rate service provider and shall avoid being placed on Red Light status by the FCC for the duration of the Agreement.

During the term of the Agreement, Service Provider shall be required to take all appropriate action to provide services in compliance with the terms and conditions of the Agreement and E-Rate rules and regulations. If Service Provider becomes ineligible as an E-Rate service provider during the term of the Agreement or becomes unwilling or unable to provide E-Rate eligible services in compliance with the Agreement and E-Rate rules and regulations, the Department and its E-Rate SUNCOM Clients shall change service providers and, if applicable, seek substitute services in accordance with applicable E-Rate rules and procedures. If during the term of the Agreement, due to circumstances within Service Provider's control, Service Provider becomes ineligible as an E-Rate service provider, becomes unwilling or unable to provide E-Rate eligible services in compliance with E-Rate rules and regulations or the Agreement, or violates E-Rate rules and regulations in a way that causes USAC to deny E-Rate SUNCOM Clients funding in whole or in part, the following shall apply:

- A. Service Provider shall be liable for the actual direct damages incurred by the Department and any affected E-Rate SUNCOM Clients that have complied with the applicable E-Rate rules and regulations.
 1. In the event that the Department and its E-Rate SUNCOM Clients change service providers and seek substitute services pursuant to the above paragraph, direct damages shall include but not be limited to any amounts paid to the substituted service provider above Service Provider's price under this Agreement. In the event the Department or such E-Rate SUNCOM Clients are unable to obtain USAC approval to change to the new provider as a provider under E-Rate rules and such USAC denial is a result of Service Provider's actions, Service Provider will also be liable for the amount of E-Rate funding forfeited as a result.
 2. Service Provider shall continue to provide the affected services to the Department and any affected E-Rate SUNCOM Clients until such time as the Department and any affected E-Rate SUNCOM Clients obtain services from a new service provider as set forth above (Transition Period). If the Department or E-Rate SUNCOM Clients are unable to obtain E-Rate funding for the Service Provider services for the Transition Period as a result of Service Provider's actions, the Department and E-Rate SUNCOM Clients will not be responsible to pay Service Provider for the amounts left unfunded by E-Rate for that Transition Period.
 3. If Service Provider violation of the E-Rate rules and regulations is a reason for E-Rate SUNCOM Clients' loss or forfeiture of E-Rate funding, in whole or in part, the value of the lost funding associated with Service Provider violation will be considered direct damage under this subparagraph A.

In no event shall Service Provider be liable for direct damages as set forth in 1. or 3. above or be required to perform as set forth in 2. above, beyond the last day of the E-Rate funding year in which Service Provider becomes ineligible as a provider under E-Rate, becomes unwilling or unable to provide E-Rate eligible services in compliance with E-

Rate rules and regulations or the Agreement, or violates E-Rate rules and regulations in a way that causes USAC to deny E-Rate SUNCOM Clients funding in whole or in part..

In addition, for purposes of clarification and to avoid confusion, the Department will not hold Service Provider responsible and Service Provider will not be liable pursuant to subparagraph 1. above, if Service Provider becomes ineligible as an E-Rate provider during the term of the Agreement, becomes unwilling or unable to provide E-Rate eligible services in compliance with E-Rate rules and regulations or the Agreement, or violates E-Rate rules and regulations in a way that causes USAC to deny E-Rate SUNCOM Clients funding in whole or in part, due to circumstances that are determined to be beyond Service Provider's control.

B. Invoicing. The Department acknowledges that it has posted an E-Rate Form 470 in connection with the procurement, which is a prerequisite to E-Rate eligible entities utilizing the Agreement awarded as a result of the procurement as the basis of E-Rate funding applications. Additionally, the Department acknowledges that some SUNCOM Clients may be eligible and apply for discounts under E-Rate. Both Service Provider and the Department agree that:

1. E-Rate has specific rules and regulations regarding the manner in which USAC and SLD approve funding requests, are presented billing and conducts audits in connections with funding under the E-Rate program; and
2. In order to ensure that the billing mechanisms and processes established pursuant to this Agreement with respect to the applications of SUNCOM Clients for discounts under the E-Rate program are in compliance with the E-Rate program requirements and regulations, the duties and responsibilities of each party are set forth in Section 5.07.06 (Invoicing) of the Business Process and Operations **Exhibit 2.**

15.11 Advertising

Subject to Chapter 119, Florida Statutes, Service Provider shall not publicly disseminate any information concerning the Agreement without prior written approval from the Department, including, but not limited to mentioning the Agreement in a press release or other promotional material, identifying the Department or the State as a reference, or otherwise linking Service Provider's name and either a description of the Agreement or the name of the State, the Department or any SUNCOM Client in any material published, either in print or electronically, to any entity that is not a party to Agreement, except potential or actual authorized distributors, dealers, resellers, or service representative.

15.12 Assignment

The Department may, without Service Provider's consent but upon notice to Service Provider, assign in whole or relevant part its rights and obligations under this Agreement to another government agency lawfully authorized by the State of Florida to procure telecommunications services. Service Provider may, without the Department's consent but upon notice, assign in whole or relevant part its rights and obligations under this Agreement to an affiliate of Service Provider. In no other case may this Agreement be assigned by either party without the prior written consent of the other party (which consent will not be unreasonably withheld or delayed). In the case of any assignment, the assigning party shall remain financially responsible for the performance of the assigned obligations.

15.13 Employees, Subcontractors, and Agents

All Service Provider employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Service Provider shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Agreement must comply with all security and administrative requirements of the Department and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement. The State may conduct, and Service Provider shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by Service Provider. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Department's security or other requirements. Such approval shall not relieve Service Provider of its obligation to perform all work in compliance with the Agreement. The State may reject and bar from any facility for cause any of Service Provider's employees, subcontractors, or agents.

15.14 Governmental Restrictions

If Service Provider believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Agreement, Service Provider shall immediately notify the Department in writing, indicating the specific restriction. The Department reserves the right and the complete discretion to accept any such alteration or to cancel the Agreement at no further expense to the Department.

15.15 Lobbying and Integrity

The Service Provider shall not, in connection with this or any other agreement with the State, directly or indirectly (i) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (ii) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (ii), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Department's Inspector General, or other authorized State official, Service Provider shall provide any type of information the Inspector General deems relevant to Service Provider's integrity or responsibility.

Such information may include, but shall not be limited to, Service Provider's business or financial records, documents, or files of any type or form that refer to or relate to the Agreement. The Service Provider shall retain such records for the longer of (i) three years after the expiration of the Agreement or (ii) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dlis.dos.state.fl.us/barm/genschedules/gensched.htm>). The Service Provider agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of Service Provider's compliance with the terms of this or any other agreement between Service Provider and the State which results in the suspension or debarment of Service Provider. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Service Provider shall not be responsible for any costs of investigations that do not result in Service Provider's suspension or debarment.

15.16 Warranty of Ability to Perform

The Service Provider warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish Service Provider's ability to satisfy its obligations hereunder. To the best of Service Provider's knowledge, the Service Provider warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to Section 287.133, Florida Statutes, or on any similar list maintained by any other state or the federal government. The Service Provider shall immediately notify the Department in writing if its ability to perform is compromised in any manner during the term of the Agreement.

15.17 Modification of Terms

The Agreement contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Department and Service Provider. The Agreement may only be modified or amended upon mutual written agreement of the Department and Service Provider. No oral agreements or representations shall be valid or binding upon the Department or Service Provider. No alteration or modification of the Agreement terms, including substitution of product, shall be valid or binding against the Department. The Service Provider may not unilaterally modify the terms of the Agreement by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto Service Provider's order or fiscal forms or other documents forwarded by Service Provider for payment. The Department's acceptance of product or processing of documentation on forms furnished by Service Provider for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

If a SUNCOM Client or the Department previously entered into a written agreement for the purchase of any Service from Service Provider, the provisions of such earlier agreement shall be subject to the terms for transition as set forth in **Exhibit 2 – Business Process and Operations** and no early cancellation fees shall apply.

15.18 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and permitted assigns.

15.19 Execution in Counterparts

The Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

15.20 Severability

If a court deems any provision of the Agreement void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

15.21 Third Party Beneficiaries

Except as otherwise stated herein, this Agreement will not be deemed to provide third parties with any remedy, claim, right of action, or other right.

15.22 Remedies

Except where otherwise expressly provided, no remedy conferred upon either party in the Agreement is intended, nor shall it be construed, to be exclusive of any other remedy provided in the Agreement or as allowed by law or in equity; rather, all such remedies shall be cumulative.

15.23 Acceptable Use; Restrictions Regarding Service

All use of Service Provider's wireless network and Service is governed by Service Provider's Acceptable Use Policy, which can be found at att.com/AcceptableUsePolicy, as determined solely by Service Provider. Service Provider can revise its Acceptable Use Policy at any time without notice. Use of Service is also subject to any restrictions and/or prohibited uses described in the applicable Sales Information. Service Provider's Account Team will provide notice to Department of any changes to Service Provider's AUP Policy.

15.24 Scrutinized Companies List

In executing this contract, Service Provider certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to section 287.135(5), Florida Statutes., Service Provider agrees the Department may immediately terminate this contract for cause if the Service Provider is found to have submitted a false certification or if Service Provider is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the contract.

15.25 *FHP and Associated or Similar Number

Service Provider will allow the Department, SUNCOM Clients, and its End Users in Florida to dial *FHP and other associated or similar numbers at no additional charge.

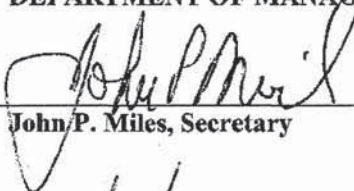
15.26 Inspection and Acceptance

Matters of inspection and acceptance are addressed in Section 215.422, Florida Statutes. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer shall: record any evidence of visible damage on all copies of the delivering carrier's Packing Slip or other method of documentation which accompanies delivery of Equipment; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Packing Slip or other method and damage inspection report.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the dates signed below.

**STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES**

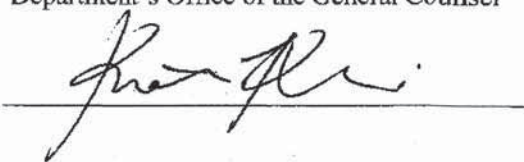
Approved as to form and legality by the
Department's Office of the General Counsel



John P. Miles, Secretary

1/11/12

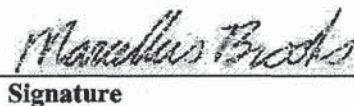
Date



1/11/12

Date

AT&T



Signature

Marcellus Brooks

Print Name

January 11, 2012

Date