



### INTERIM TRAFFIC TERMINATION AND BILLING AGREEMENT

This is an INTERIM AGREEMENT ("Agreement") effective as provided herein by and between Sprint Metropolitan Networks, Inc., a Florida Corporation, acting in its role as an alternate local exchange carrier ("SMNI"), and Vista-United Telecommunications, a Florida general partnership ("VISTA"). (Collectively, VISTA and SMNI shall be referred to as the "Parties").

A. This Agreement sets forth the provisions under which SMNI and VISTA will provide for originating, terminating, and/or transporting Toll and Local traffic between the facilities operated by the Parties. This Agreement also sets forth the terms and conditions for the handling of telecommunications services for which charges are billed and collected by one Party for the other Party.

B. This Agreement covers only traffic provided through the use of Feature Group type C access, Feature Group type D terminating access, or Feature Group type D originating access in those cases where either Party is the provider of services selected by an end-user, to the other Party's end offices.

C. This Agreement covers only the exchange of Local and Toll traffic which either SMNI originates outside of VISTA's certificated service area or VISTA terminates outside of VISTA's certificated service area, as described in its Party's applicable and respective tariffs on file with the Florida Public Service Commission, and is intended only to replicate the arrangements currently existing between VISTA and its neighboring incumbent local exchange companies for the exchange of Local and Toll traffic. Nothing in this Agreement shall be construed as an attempt to reach agreement regarding matters contained in Sections 251(b) and (c) of the Act; nor shall any provision or act or omission of VISTA pursuant to this Agreement be construed as a waiver of VISTA's rights under Section 251(f) of the Act.

#### Section 1 - Definitions

1.01 **Act** - means the Telecommunications Act of 1996, Public Law 104-104 of the 104th United States Congress effective February 8, 1996.

1.02 **Affiliate** - as to any entity, means any other entity which is controlled by, controls, or is under common control with such entity; provided, however, that Euro Disney S.A and Euro Disney S.C.A. shall not be Affiliates of VISTA. The term "control" (including the terms "controlled," "controlled by" and "under common control with") shall mean the possession direct or indirect, of the power to direct or cause the direction of the management and policies of an entity. The term "Affiliates" shall be the plural reference to "Affiliate."

1.03 **Alternate Billed Messages** - means messages originating on one Party's facilities that are billed by another company. Alternate billed messages include calls that are collect, third number billed and billed to a LEC calling card.

1.04 **Automatic Number Identification ("ANI")** - means the process which identified the telephone number of the line initiating a call in order to send this information to the message accounting system.

1.05 **Centralized Message Distribution System ("CMDS")** - a generic term that refers to all applications using the centralized nationwide system for the interexchange of data through a network of private line transmission facilities. The CMDS transport system is used by the Bellcore Client Companies (BCCs) and other LECs (through a sponsor relationship with a BCC) for the efficient transmission and exchange of in-collect and out-collect (Intercompany Settlement ("ICS") and non-ICS messages) billable records, Access Usage Records (AURs), and Summary Usage Records (SUR's).

1.06 **Commercial Mobile Radio Service Provider ("CMRSP")** - means a radio common carrier provider of domestic public wireless or wireless telecommunication service, as defined in Part 22, Subpart H or Part 24 of the FCC Rules and Regulations.

1.07 **Commission** - means the Florida Public Service Commission.

1.08 **Confidential Information** - shall have the meaning ascribed to it in Section 17, hereof.

1.09 **Expanded Message Record ("EMR")** - means industry-accepted formatted records to be exchanged between LECs for billing purposes.

1.10 **Governmental Authority** - means the United States and any state, and any county, city or political subdivision thereof, and any board, bureau, council, commission, department, agency, court, legislative body or other instrumentality of the United States or any state, or any county, city or political subdivision thereof (including, without limitation, Reedy Creek Improvement District, a political subdivision of the State of Florida (ARCID@)).

1.11 **Independent Local Exchange Carrier ("ILEC")** - means a local exchange carrier that is not a Bell Operating Company, as defined in the Act.

1.12 **Law** - shall have the meaning ascribed to it in Section 9, hereof.

1.13 **Local Exchange Carrier ("LEC")** - is as defined in the Act.

1.14 **Local Traffic** - means traffic which originates and terminates within the local service area of the Parties shown in Attachment A hereto, including Extended Area Service and Extended Calling Plan calls between the Parties. Traffic to, and from customers of CMRSPs shall be considered local traffic for purposes of this Agreement.

1.15 **Meet Point** - means that point mutually agreed upon by the Parties at which their network facilities are interconnected for the reciprocal exchange of traffic.

1.16 **Mutual Traffic Exchange** - means a form of compensation in which one party is compensated for terminating the other parties' local traffic through the reciprocal termination of its traffic by the other party.

1.17 **System** - means the exchange and interexchange switching, and transmission facilities that route, switch and transport a Party's Local and Toll Traffic.

1.18 **Toll Traffic** - means traffic that is originated by an end user of one Party and terminates to an end user of the other Party and is not Local Traffic. Toll Traffic will be intraLATA traffic where originating or terminating points are within the same LATA.

1.19 **Unbillable** - means messages with respect to which the end user customer account can not be identified.

1.20 **Uncollectible** - means messages that are billed to a customer account, however, revenues cannot be collected, including messages with respect to which the end user denies all knowledge.

1.21 **Worldco** - shall have the meaning ascribed to it in Section 25 hereof.

## **Section 2 - Exchanges Included**

The exchanges of VISTA covered by this Agreement are shown in Attachment "A", attached hereto and incorporated herein by reference.

The exchanges of SMNI covered by this Agreement are shown in Attachment "A", attached hereto and incorporated herein by reference.

## **Section 3 - Provision of Service**

- A. The Parties agree, pursuant to the terms set out herein, to exchange traffic for the purpose of allowing origination and termination of telephone calls between the Parties' end users, including traffic originating from customers of CMRSPs and terminating to the Parties' end users, and including traffic originating from the Parties' end users and terminating to customers of CMRSPs.
- B. Each Party will plan, design, construct and maintain the facilities within their respective Systems as are necessary and proper for the provision of traffic covered by this Agreement. These facilities include, but are not limited to, a sufficient number of trunks to the point of connection, and sufficient interoffice and interexchange trunks between its own central offices to adequately handle traffic between all central offices within the service areas. The arrangement of the facility systems, including, but not limited to, routing are shown in Attachment "B", attached hereto and incorporated herein by reference. Attachments "A" and "B" may be amended from time to time by mutual agreement in writing by the Parties as a result of changes in exchange boundaries, local calling areas or implementation of new NXX codes.
- C. The provisioning and engineering of such services and facilities will comply with generally accepted industry methods and practices and will observe the rules and regulations of the lawfully established tariffs applicable to the services provided. To the extent that SMNI requests a design which exceeds VISTA's standard cost, SMNI shall bear the additional cost.

The traffic covered by this Agreement will be routed as indicated in Attachment "B". Changes in routing shall be agreed upon in writing by the Parties before becoming effective.

#### Section 4 - Traffic Recording and Identification

- A. The traffic recording and identification functions required to provide the services specified hereunder shall be performed by the Parties. Each Party will calculate terminating minutes of use based on standard Automatic Message Accounting recording made within each Party's network. The record shall contain the appropriate ANI information or service provider information or service provider information to identify the originating company. The Party originating traffic shall generate and provide the appropriate EMR standard record or other agreed upon record format, to the terminating Party. These records will be provided at no charge to the other Party within 60 days of the usage data.
- B. SMNI and VISTA agree they will, to the extent feasible, make every attempt to accurately capture and report the actual usage interchanged between them for use in calculating the necessary compensation under this Agreement.
- C. Should actual traffic information (measured in minutes of use) not be available, the Parties will mutually agree on a suitable alternative basis for calculating compensation which most closely approximates the actual interchanged usage.
- D. Each Party shall deliver monthly statements for terminating the other's traffic.

#### Section 5 - Compensation Arrangement

The Parties agree to compensate each other for the termination of local and intraLATA toll traffic pursuant to this Agreement in accordance with the following:

- A. Each Party will generate a monthly bill for intraLATA toll, as applicable, to the other Party for traffic terminating to its end offices.
- B. Compensation for termination of Local Traffic will be Mutual Traffic Exchange.
- C. Compensation for termination of Toll Traffic will be calculated by applying the access rates set forth in the tariff or price list, filed by or on behalf of each party with the Commission. As rates change, the latest effective rates will be used. Switched Access Service is intended to compensate the Parties, per this Agreement, when the Parties provide:
  - (1) Loop, drop and associated equipment from the end office to the End User (Carrier Common Line).
  - (2) End office switching functions (Traffic Sensitive):
    - Local Switching
    - Line Termination
    - Intercept (applicable only if the element is included in the party's Intrastate access tariff of price list)

- (3) Local transport facilities - the Parties agree that the following billing percentages apply for the calculation of common transport charges from intraLATA Toll:

For toll traffic originating from SMNI and terminating to VISTA, the percentage of transport billed by SMNI will be eighty percent (80%) based upon the location of the meet-point shown in Attachment "B".

For toll traffic originating from VISTA and terminating to SMNI, the percentage of transport billed by VISTA will be twenty percent (20%) based upon the location of the meet-point shown in Attachment "B".

- D. All compensation payable pursuant to this Agreement for termination of traffic shall be payable within 30 days of the bill date.

#### **Section 6 - Alternate Billed Messages**

- A. Each Party agrees to provide the other Party billing, collecting and remitting services on alternate billed messages. Each Party will provide to the other Party the EMR standard formatted record for billing of messages to their end users. These records may be exchanged over CMDS or a tape generated and mailed to the billing company. These records must be exchanged at least monthly.
- B. Each Party agrees to remit to the other Party the revenue value of each alternate billed message less a billing and collection fee of \$0.0666 per message.
- C. Unbillable messages will be the liability of the originating company. The billing company must appropriately account for and return the unbillable messages to the originating company pursuant to EMR standard guidelines.
- D. Uncollectible messages will be the liability of the billing company.
- E. Each Party will promptly furnish to the other such information as may be required for monthly compensation purposes. Compensation statements for alternate billed messages will be rendered monthly and remittance in full will be made by the debtor company 30 days thereafter. The Parties hereby agree that if any monthly statement reflects a total amount payable less than \$10, no payment shall be due with respect to such statement.



### **Section 7 - Operator Services**

Each Party will be responsible for maintaining its own customer information in currently available databases used in the provision of miscellaneous intercompany operator services (i.e. Local Assistance, Directory Assistance, Directory Assistance Call Completion, Busy Line Verification/Interrupt).

### **Section 8 - Audits**

Each Party will keep adequate records of all collection, payments and other transactions hereunder. Upon 30 days written notice, any Party may request an audit of the usage reports or billing data supplied by the other Party hereunder and any such audit shall be accomplished during normal business hours at the office designated by the Party being audited. Audits requests shall not be submitted more frequently than one time per calendar year. Audits may be performed by a mutually acceptable independent auditor paid for by the Party requesting the audit. A request for an audit must be received within one year of receipt of the records or usage reports from the audited Party. Auditors hereunder shall not be compensated on a contingent fee basis.

### **Section 9 - Governing Law**

This Agreement shall be governed by, construed under, interpreted and enforced in accordance with the laws of the State of Florida, and, where applicable, the laws of the United States of America.

### **Section 10 - Entire Agreement; No Offer**

This Agreement contains the entire Agreement of VISTA and SMNI with respect to the subject matter hereof, and no representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties not embodied in this Agreement shall be of any force or effect. This Agreement shall be modified only by a written agreement executed by both parties with the same formalities as this Agreement. All prior agreements or communications that are the subject matter of this Agreement are and shall be merged into this Agreement and shall have no force or effect. Neither any submission of this Agreement by one party to the other, nor any correspondence or other communications between the parties in connection therewith, is intended or shall be deemed to constitute an offer of any kind or to create any obligations between the parties unless and until one or more duplicates of this Agreement has been fully executed and delivered between the parties. Accordingly, any such submission, communications or correspondence between the parties or their respective agents or attorneys is intended only as non-binding discussions prior to such execution, and either party shall have the absolute right to withdraw from such discussions without any liability whatsoever to the other party prior to such execution.

### **Section 11 - Representations and Warranties**

(1) SMNI represents and warrants to VISTA the following:

SMNI is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida and is authorized to transact business in the State of Florida;

SMNI, and the undersigned signatories executing this Agreement on behalf of SMNI, are duly authorized and empowered to enter into this Agreement with VISTA;

To the best of the undersigned's actual knowledge, neither the entering into of this Agreement nor the performance or satisfaction by SMNI of its obligations and liabilities hereunder nor the exercise by SMNI of any of its rights or options hereunder will constitute or result in a violation or breach by SMNI of any judgment, order, writ, injunction or decree issued against or imposed upon it, or to the best of the undersigned's actual knowledge will result in a violation of any applicable Law;

To the best of the undersigned's actual knowledge and belief after reasonable inquiry, there is no action, suit, proceeding or investigation pending or threatened, which would prevent, impair or which questions the validity or enforceability of this Agreement or any action taken pursuant hereto in any court or before or by an federal, district, county, or municipal department, commission, board, bureau, agency or other governmental instrumentality; and

Except as provided in Section 21(A) of this Agreement, no further approval, consent, order or authorization of, or designation, registration or filing with, any Governmental Authority is required in connection with the due and valid execution and delivery of this Agreement and compliance with the provisions hereof by SMNI.

(2) VISTA represents and warrants to SMNI the following:

VISTA is a partnership duly organized, validly existing and in good standing under the laws of the State of Florida and is authorized to transact business in the State of Florida;

VISTA, and the undersigned signatories executing this Agreement on behalf of VISTA are duly authorized and empowered to enter into this Agreement with SMNI:

To the best of the undersigned's actual knowledge, neither the entering into of this Agreement nor the performance or satisfaction by VISTA of its obligations and liabilities hereunder nor the exercise by VISTA of any of its rights or options hereunder will constitute or result in a violation or breach by VISTA of any judgment, order, writ, injunction or decree issued against or imposed upon it, or to the best of the undersigned's actual knowledge will result in a violation of any applicable Law;

To the best of the undersigned's actual knowledge and belief after reasonable inquiry, there is no action, suit, proceeding or investigation pending or threatened, which would prevent, impair or which questions the validity or enforceability of this Agreement or any action taken pursuant hereto in any court or before or by an federal, district, county, or municipal department, commission, board, bureau, agency or other governmental instrumentality; and

Except as provided in Section 21(A) of this Agreement, no further approval, consent, order or authorization of, or designation, registration or filing with, any Governmental Authority is required in connection with the due and valid execution and delivery of this Agreement and compliance with the provisions hereof by VISTA.



## Section 12 - Limitations of Liability and Indemnifications

- A. Neither SMNI nor VISTA will be liable to the other for either Party's indirect, incidental, special or consequential damages (including, but not limited to, lost profits) arising, in whole or in part, from either Party's actions, omissions, mistakes, or negligence relating to performance under this Agreement (including but not limited to breaches of this Agreement).
- B. No Party shall be liable for any act or omission of another telecommunications company providing a portion of the services provided under this Agreement.
- C. The Parties assume no liability for the accuracy of data provided by another Party and each Party agrees to indemnify and hold harmless the others for any claim, action, cause of action, damage, or injury that might result from the supply of inaccurate data in conjunction with the provision of any service provided pursuant to this Agreement.
- D. SMNI and VISTA shall each indemnify and hold harmless the other, the other's affiliated companies and their respective officers, director, employees and agents of each from all liabilities, damages, costs and expenses (including reasonable counsel fees) incurred in connection with any claim arising out of such party's breach of any representation, warranty or obligation hereunder.
- E. Either party seeking indemnification under this Agreement (the "Indemnified Party") shall give notice to the party required to provide indemnification hereunder (the "Indemnifying Party") promptly after the Indemnified Party has actual knowledge of any claim as to which indemnity may be sought hereunder, and the indemnified Party shall permit the Indemnifying Party (at the expense of the Indemnifying Party) to assume the defense of any claim or litigation resulting therefrom; provided, that: (i) counsel for the Indemnifying Party who shall conduct the defense of such claim or litigation shall be reasonably satisfactory to the indemnified Party; (ii) the Indemnified Party may participate in such defense, but only at the Indemnified Party's own cost and expense; and (iii) the omission by the Indemnified Party to give notice as provided herein shall not relieve the indemnifying Party of its indemnification obligations hereunder except to the extent that such omission results in a failure of actual notice to the Indemnifying Party and the Indemnifying Party is damaged as a result of such failure to give notice.
- F. The Indemnifying Party shall not, except with the consent of the Indemnified Party, consent to entry of any judgment or administrative order or enter into any settlement that (i) could affect the intellectual property rights or other business interests of the Indemnified Party or (ii) does not include as an unconditional term thereof the giving by the claimant or plaintiff to the Indemnified Party of a release from all liability with respect to such claim or litigation.
- G. In the event that the Indemnified Party shall reasonably and in good faith determine that the conduct of the defense of any claim subject to the indemnification hereunder or any proposed settlement of any such claim by the indemnifying Party might be expected to affect adversely the Indemnified Party's intellectual property rights or ability to conduct future business, the Indemnified Party shall have the right at all times to take over and assume control over the defense, settlement negotiations or lawsuit relating to any such claim at the sole cost and expense of the Indemnifying Party; provided that if the

Indemnified Party does so take over and assume control, the amount of the indemnity required to be paid by the Indemnifying party shall be limited to the amount which the Indemnifying Party is able to demonstrate that it could have settled the matter for immediately prior to the time of such assumption.

- H. In the event that the Indemnifying Party does not accept the defense of any matter as above provided, the indemnified Party shall have the full right to defend against any such claim or demand, and shall be entitled to settle or agree to pay in full such claim or demand, in its sole discretion.
- I. The provision of this Section shall survive the expiration or sooner termination of this Agreement.

### **Section 13 - Assignment and Binding Effect**

Neither party may assign, transfer, or sublease (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party (including a corporate affiliate or an entity under its common control or an entity acquiring all or substantially all of its operations, assets or equity in Florida) without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer not permitted under this Agreement shall be void ab initio. Without limiting the foregoing, with respect to any approved assignment, transfer and/or sublease hereunder, the assignor, transferor, and/or sublessor, as the case may be, shall be released from the rights, duties and obligations in this Agreement and such rights, duties and obligations shall extend to, be binding upon and inure to the benefit of such assignee, transferee and/or sublessee, as the case may be.

### **Section 14 - Rights Cumulative**

All rights, remedies, powers and privileges conferred under this Agreement on the parties shall be cumulative of and in addition to, but not restrictive of or in lieu of, those conferred by Law.

### **Section 15 - Force Majeure**

Except as otherwise expressly provided in this Agreement, and except with respect to any failure to pay any sum due hereunder as a result of bankruptcy, insolvency or refusal or inability to pay, if either party shall be delayed or hindered in whole or in part, or prevented from, the performance of any non-monetary covenant or obligation hereunder as a result of acts of God, fire or other casualty, earthquake, hurricane, flood, epidemic, landslide, enemy act, war, riot, intervention by civil or military authorities of government, insurrection or other civil commotion, general unavailability of certain materials, strikes, boycotts, lockouts, labor disputes or work stoppage beyond the control of either party hereto, then the performance of such covenant or obligation, shall be excused for the period of such delay, hindrance or prevention and the period of the performance of such covenant or obligation shall be extended by the number of days equivalent to the number of days of such delay, hindrance or prevention.

### **Section 16 - No Waiver**

No release, discharge or waiver of any provision hereof shall be enforceable against or binding upon either party unless in writing and executed by the other party as the case may be. Neither the failure of either party to insist upon a strict performance of any of the agreements, terms, covenants and conditions hereof, nor the acceptance of any payments from either party with knowledge of a breach of this Agreement by the other party in the performance of its obligations hereunder, shall be deemed a waiver of any rights or remedies that VISTA or SMNI may have or a waiver of any subsequent breach or default in any of such agreements, terms, covenants and conditions.

### **Section 17 - Confidentiality of Proprietary Data**

The Parties agree that it may be necessary to exchange certain confidential information during the term of this Agreement including, without limitation, technical and business plans, technical information, proposals, specifications, drawings, procedures, customer account data and similar information (hereinafter collectively referred to as "Confidential Information"). The Confidential Information shall either be in writing or other tangible forms and clearly marked with a confidential, private or proprietary legend (except for all information reviewed pursuant to Section 8 which shall be protected hereunder, whether or not so marked) or when the Confidential Information is communicated orally, it shall also be communicated that the Information is confidential, private or proprietary. The Confidential Information will be returned to the owner within a reasonable time. Except as otherwise required by Law or the rules of the Commission, VISTA and SMNI agree not to disclose "Confidential Information" (as such term is herein defined) to any third party other than to their respective directors, officers, employees and agents and advisors (including legal, financial and accounting advisors) (collectively, "Representatives"), as needed to effectuate this Agreement. If Confidential Information must be produced to the Commission, it shall be provided pursuant to the Commission's rule regarding confidential information.

### **Section 18 - Agreement Does Not Benefit Non-Parties**

In entering into, and in performing under, this Agreement, the parties do not intend to benefit in any way, any person who is not one of the two Parties to this Agreement. This Agreement does not enlarge, add to, or change, in any way, any rights of any nonparties which would exist if this Agreement did not exist.

### **Section 19 - Lawfulness and Severability**

In the event that a court with proper jurisdiction or another governmental agency with proper jurisdiction issues an order finding that a provision of this Agreement is unlawful or may not be enforced, all other provisions of this Agreement will continue in force and effect.

In the event that a court with proper jurisdiction or another governmental agency with proper jurisdiction issues an order finding that this Agreement, as a whole, is unlawful or may not be enforced, this Agreement will terminate and both parties will be excused from all further performance under this Agreement.

## Section 20 - Defaults or Violations

If disputes arise with regard to this Agreement or its Attachments during the term of this Agreement, the dispute resolution process established by the Commission shall apply and the resolution resulting from that process shall be binding on the Parties.

## Section 21 - Term

- A. The Parties shall file this Agreement with the Commission as soon as practicable following its execution in accordance with the Act and unless rejected by the Commission, it shall become effective pursuant to its terms when approved by the Commission or when deemed approved under the Act.
- B. The Parties agree to exchange traffic pursuant to the terms of this Agreement for a period of two years from the effective date of this Agreement, and thereafter the Agreement shall continue in full force and effect until replaced by an agreement pursuant to Section 21(C). The effective date of this Agreement shall be the date of its approval by the Commission. The foregoing notwithstanding, this Agreement may be terminated on reasonable prior written notice by either party upon VISTA completing the renegotiation of its existing interconnection agreements with all or any of its neighboring incumbent LECs.
- C. Upon delivery of written notice at least one hundred and sixty (160) days prior to the expiration of this Agreement, any Party may require negotiations of the rates, terms, and conditions of the interconnection arrangements to be effective upon such expiration. Unless deemed to be inconsistent with the Act, if the Parties are unable to satisfactorily negotiate such new terms within 135 days of commencing the negotiations, any Party may petition the Commission to establish appropriate interconnection arrangements. In the event that the Commission does not issue its order prior to the scheduled expiration date in such State, the Parties agree that the rates, terms and conditions ultimately ordered by such Commission or negotiated by the Parties will be effective retroactive to the expiration date. Until the revised interconnection arrangements become effective, the Parties shall continue to exchange traffic pursuant to the terms of this Agreement.
- D. The Parties acknowledge that this Agreement does not cover all aspects of the exchange of local and intraLATA toll traffic under the Act. If changes in business plans, traffic volumes or network configurations warrant, other exchanges of traffic between the Parties will be negotiated on a nondiscriminatory basis. The Parties acknowledge that if the Parties fail to reach agreement upon any such matters, either Party may commence arbitration or mediation under Section 252 of the Act and neither Party shall oppose the other's request for arbitration or mediation.

## Section 22 - Notices

Any notice, demand, request, offer, consent, approval or communication to be provided under this Agreement shall be in writing and shall be deemed received: (i) two business days after it is deposited, postage prepaid, in the United States mail, certified or registered mail with a return receipt requested, addressed (as the case may be) to VISTA at VISTA's address shown herein, or to SMNI at the address of SMNI shown herein; (ii) the next day after it is deposited with a nationally recognized and reputable air courier addressed (as the case may be) to VISTA at VISTA's address shown herein, or to SMNI at the address of SMNI shown herein; or (iii) the

same day it is personally delivered (as the case may be) to VISTA at VISTA's address shown herein, or to SMNI at the address of SMNI shown herein. Either party may designate a different address for receiving notices hereunder by notice to the other party.

**Sprint Metropolitan Networks, Inc.**

151 South Hall Lane  
Suite 400B  
Maitland, Florida 32751  
Attn: Operations Manager

**Vista-United Telecommunications**

3100 Bonnet Creek Road  
Lake Buena VISTA, FL 32830  
Attn: Manager - Business Affairs

and:

Walt Disney World Co.  
1375 Buena Vista Drive  
Lake Buena Vista, FL 32830  
Attn: General Counsel

Either Party may change its representative by giving 30 days written notice in accordance with this Section of this Agreement.

If any notice is tendered and is refused by the intended recipient, such notice shall, nonetheless, be considered to have been given and shall be effective as of the date provided herein.

**Section 23 - Severability**

If any clause or provision of this Agreement is illegal, invalid or unenforceable under applicable present or future Laws effective during the term of this Agreement, the remainder of this Agreement shall not be affected. In lieu of each clause or provision of this Agreement which is illegal, invalid or unenforceable, there shall be added as a part of this Agreement a clause or provision as nearly identical as may be possible and as may be legal, valid and enforceable. Notwithstanding the foregoing, in the event any clause or provision of this Agreement is illegal, invalid or unenforceable as aforesaid and the effect of such illegality, invalidity or unenforceability is that VISTA no longer has the substantial benefit of its bargain under this Agreement, then, in such event, VISTA may, in its discretion, cancel and terminate this Agreement upon providing reasonable advance written notice thereof to SMNI.



## **Section 24 - Accord and Satisfaction**

Payment by any party, or receipt or acceptance by a receiving party, of any payment due hereunder in an amount less than the amount required to be paid hereunder shall not be deemed an accord and satisfaction, or a waiver by the receiving party of its right to receive and recover the full amount of such payment due hereunder, notwithstanding any statement to the contrary on any check or payment or on any letter accompanying such check or payment. The receiving party may accept such check or payment without prejudice to the receiving party's right to recover the balance of such payment due hereunder or to pursue any other legal or equitable remedy provided in this Agreement.

## **Section 25 - No Representations**

(1) SMNI acknowledges that it has examined VISTA's systems and that it is not relying upon any representation or warranty, either express or implied, made by VISTA or any of VISTA's Affiliates, or any Affiliate of Walt Disney world Company, a Delaware corporation ("Worldco"), or any other person or entity in any way affiliated with VISTA, or being or claiming to be an agent, employee or servant of VISTA, with respect to: the physical condition of VISTA's systems, the ground, earth or subsoil conditions; the financial reports, data, analyses or projections that concern the proposed development, operation or projected occupancy of VISTA's systems; the proposed construction of, or any agreement not to construct, any other facilities or amenities adjacent to, or in proximity to, VISTA's systems; any zoning or other applicable legal requirements; or any other matter or thing in respect of the subject matter of this Agreement and/or the Attachments hereto or the transaction and development contemplated hereby.

(2) VISTA acknowledges that it has examined SMNI's systems and that it is not relying upon any representation or warranty, either express or implied, made by SMNI or any of SMNI's Affiliates or any other person or entity in any way affiliated with SMNI, or being or claiming to be an agent, employee or servant of SMNI, with respect to: the physical condition of SMNI's systems, the ground, earth or subsoil conditions; the financial reports, data, analyses or projections that concern the proposed development, operation or projected occupancy of SMNI's systems; the proposed construction of, or any agreement not to construct, any other facilities or amenities adjacent to, or in proximity to, SMNI's systems; any zoning or other applicable legal requirements; or any other matter or thing in respect of the subject matter of this Agreement and/or the attachments hereto or the transaction and development contemplated hereby.

## **Section 26 - Promotions**

(1) Except as specifically permitted by VISTA in this Agreement, SMNI shall acquire no right under this Agreement to use, and shall not use, the name of VISTA, the name "Disney" (either alone or in conjunction with or as a part of any other word, mark or name) or any marks, fanciful characters or designs of The Walt Disney Company or any of its related, affiliated or subsidiary companies, in any of its advertising, publicity or promotion; to express or imply any endorsement by VISTA of its services; or in any other manner whatsoever (whether or not similar to the uses hereinabove specifically prohibited). VISTA reserves the right to approve or disapprove, in its sole discretion, any advertising and promotional materials to be used on, within, in conjunction with, or in any way mentioning advertising or promoting SMNI's business with respect to VISTA's systems. This Section shall survive the expiration or sooner termination of this Agreement.

8/1/82/88

(2) Except as specifically permitted by SMNI in this Agreement, VISTA shall acquire no right under this Agreement to use, and shall not use, the name of SMNI, the name "Sprint Metropolitan Networks, Inc." (either alone or in conjunction with or as a part of any other word, mark or name) or any marks, fanciful characters or designs of SMNI or any of its related, affiliated or subsidiary companies, in any of its advertising, publicity or promotion; to express or imply any endorsement by SMNI of its services; or in any other manner whatsoever (whether or not similar to the uses hereinabove specifically prohibited). SMNI reserves the right to approve or disapprove, in its sole discretion, any advertising and promotional materials to be used on, within, in conjunction with, or in any way mentioning advertising or promoting VISTA's business with respect to SMNI's systems. This Section shall survive the expiration or sooner termination of this Agreement.

#### **Section 27 - Counterparts**

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

#### **Section 28 - Forum and Venue for Legal Proceedings/Waiver of Jury Trial**

Any legal proceeding of any nature brought by either party against the other to enforce any right or obligation under this Agreement, or arising out of any matter pertaining to this Agreement, shall be submitted exclusively for trial, without a jury, before the Circuit Court for Orange County, Florida; or if such court shall not have jurisdiction, then before any other court or administrative body sitting in the State of Florida having subject matter jurisdiction. The parties consent and submit to the exclusive jurisdiction of any such court and agree to accept service of process outside the State of Florida in any matter to be submitted to any such court pursuant hereto, and expressly waive all rights to trial by jury regarding any such matter.

#### **Section 29 - Relationship Disclaimer**

The parties hereby acknowledge that it is not their intention to create between themselves a partnership, joint venture, fiduciary, employment or agency relationship for the purposes of this Agreement, or for any other purpose whatsoever. Accordingly, notwithstanding any expressions or provisions contained herein or in any other document, nothing in this Agreement or in any documents executed or delivered or to be executed or delivered shall be construed or deemed to create, or to express an intent to create, a partnership, joint venture, fiduciary, employment or agency relationship of any kind or nature whatsoever between the parties hereto.

#### **Section 30 - Construction of Agreement**

This Agreement has been fully reviewed and negotiated by the parties hereto and their respective counsel. Accordingly, in interpreting this Agreement, no weight shall be placed upon which party hereto or its counsel drafted the provisions being interpreted.

## ATTACHMENT A

### Exchanges

**1. SMNI Exchanges include:**

NPA-NXX	End Office CLLI	EO Vert	EO Horz	Serving	Local	Toll
A. 407-206	ORLDFLERDSO	7953	1032	Orlando	H,I,J,K,L,M,N,O	
B. 407-303	ORLDFLERDSO	7953	1032	Orlando	H,I,J,K,L,M,N,O	
C. 407-304	ORLDFLERDSO	7953	1032	Winter Park	H,I,J,K,L,M,N,O	
D. 407-513	ORLDFLERDSO	7953	1032	Orlando	H,I,J,K,L,M,N,O	
E. 407-514	ORLDFLERDSO	7953	1032	Orlando	H,I,J,K,L,M,N,O	
F. 407-531	ORLDFLERDSO	7953	1032	Lake Mary	H,I,J,K,L,M,N,O	
G. 407-764	ORLDFLERDSO	7953	1032	Kissimmee	I	H,I,J,K,L,M,N,O H,J,K,L,M,N,O

**2. VISTA Exchanges include:**

NPA-NXX	End Office CLLI	EO Vert	EO Horz	Serving	Local	Toll
H. 407-560	LKBNFLXBDSO	7998	1041	LBV	A,B,C,D,E	F,G
I. 407-566	LKBNFLXBDSO	7998	1041	Celebration	A,B,C,D,E,G	F
J. 407-824	LKBNFLXBDSO	7998	1041	LBV	A,B,C,D,E	F,G
K. 407-827	LKBNFLXBDSO	7998	1041	LBV	A,B,C,D,E	F,G
L. 407-828	LKBNFLXBDSO	7998	1041	LBV	A,B,C,D,E	F,G
M. 407-934	LKBNFLXBDSO	7998	1041	LBV	A,B,C,D,E	F,G
N. 407-938	LKBNFLXBDSO	7998	1041	LBV	A,B,C,D,E	F,G
O. 407-939	LKBNFLXBDSO	7998	1041	LBV	A,B,C,D,E	F,G

ATTACHMENT B

Drawing B

