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May 20, 2002

COMMISSION
CLERK

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

020455-TP

Re: Approval of a CMRS Interconnection Agreement with Metrocall, Inc.

Dear Ms. Bayó:

Please find enclosed for approval and filing an original and five copies of a CMRS Interconnection Agreement between Sprint-Florida, Incorporated (Sprint) and Metrocall, Inc.

This agreement replaces any previous CMRS Interconnection agreements between Sprint and Metrocall, Inc.

If you have any questions on this matter, please contact my assistant Teresa Harless at 850-599-1563.

Sincerely,

Susan S. Masterton

cc: Ken Goldstein, Sr. Vice President
Metrocall, Inc.
6677 Richmond Highway
Alexandria, VA 22306

Phone: 703-677-6677

Frederic M. Joyce
Alston & Bird LLP
601 Penn. Ave, NW, North
Bldg. 11th Floor
Washington, DC 20001

Phone: 202-756-3376

Enclosure

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**INTERCONNECTION AGREEMENT UNDER
SECTIONS 251, 252, AND/OR 332, AS APPLICABLE, OF THE COMMUNICATIONS
ACT**

STATE OF FLORIDA

Effective: May 1, 2002

Ending: October 31, 2003

Metrocall, Inc.

and

Sprint – Florida, Incorporated

This proposed Agreement represents the positions of the Sprint operating telephone companies and Metrocall, Inc. with respect to interconnection. Sprint and Metrocall reserve the right to modify these positions based upon further review of existing orders from or the issuance of additional orders by the Federal Communications Commission, the appropriate state public service or public utilities commission or a court of competent jurisdiction.

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INTERCONNECTION AGREEMENT

This Interconnection Agreement (“Agreement”), is entered into under Sections 251, 252, and/or 332 of the Act, by and between Metrocall, Inc., a Delaware corporation, and Sprint – Florida, Incorporated (“Sprint”), a Florida corporation, hereinafter collectively, “the Parties,” entered into and effective this 1st day of May, 2002 (“Effective Date”), for a term ending October 31, 2003 (“End Date”).

WHEREAS, the Parties desire to enter into an agreement for the Interconnection of their respective networks for the transport and termination of Telecommunications traffic between them for the provision of Telecommunications Services pursuant to the Act as set forth herein;

WHEREAS, the Parties seek to accomplish Interconnection of their respective networks in a technically and economically efficient manner, and in accordance with the requirements of the Act and other applicable federal, state, and local laws;

WHEREAS, the Parties intend the rates, terms and conditions of this Agreement and their performance of obligations thereunder, to comply with the Act, the rules, regulations and orders of the Federal Communications Commission, and the rules, regulations and orders of the Florida Public Service Commission (“Commission”); and

WHEREAS, the parties wish to replace any and all other prior interconnection agreements, both written and oral, applicable to the State of Florida with this Agreement;

Now, therefore, in consideration of the premises and the terms and conditions contained herein, Metrocall and Sprint, intending to be legally bound, hereby mutually agree as follows:

PART A – DEFINITIONS

1. **DEFINED TERMS.** Capitalized terms defined in this Agreement shall have the ascribed meanings throughout this Agreement. Unless the context clearly indicates otherwise, any term defined or used in the singular will include the plural. The parties acknowledge that other terms appear in this Agreement, which are not defined or ascribed as stated above. Such terms will have the meanings ascribed to them in the Act, the rules and regulations of the FCC or the Commission, or shall be construed in accordance with their customary usage in the telecommunications industry as of the Effective Date of this Agreement.

1.1. “Act” means the Communications Act of 1934 (47 U.S.C. §§151 *et seq.*), as amended *inter alia*, by the Telecommunications Act of 1996, and as interpreted from time to time in the duly authorized rules, regulations, interpretations, rulings and orders of the FCC or the Commission and as further interpreted in any judicial review of such laws, rules, orders and regulations.

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- 1.2. "Affiliate" is as defined in the Act.
- 1.3. "Applicable Laws" means all laws, statutes, common laws, regulations, ordinances, codes, rules, regulations, guidelines, orders, permits, and approvals, including, without limitation, those relating to the environment or health and safety, of any Governmental Authority that apply to the Parties or the subject matter of this Agreement, and the Act.
- 1.4. "Bellcore" means Telcordia Technologies, Inc., or any successor organization.
- 1.5. "Business Day(s)" means the days of the week excluding Saturdays, Sundays, and Sprint holidays, including New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, the day after Thanksgiving and Christmas.
- 1.6. "Central Office Switches" ("COs") means a switch within the public switched telecommunications network, including, but not limited to:
 - 1.6.1. "End Office Switches" ("EOs") are landline switches from which Sprint's end-user Exchange Services are directly connected and Remote Switches that have their own Exchange Service area.
 - 1.6.2. "Tandem Switches" are switches that are used to connect and switch traffic between and among Central Office Switches and other Telecommunications Carriers' networks.
 - 1.6.3. "Messaging Switches" or "Mobile Switching Center" are switches used by Metrocall to switch and route NCMRS Telecommunications Traffic.
- 1.7. "Collocation" is as defined by the FCC and the Commission.
- 1.8. "CMRS" means Commercial Mobile Radio Service as defined in 47 C.F.R. Section 20.3.
- 1.9. "Common Transport" means a local interoffice transmission path between the Sprint Tandem Switch and a Sprint End Office switch and, if applicable, its Remote Switch. Common Transport is shared between multiple customers.
- 1.10. "Customer Proprietary Network Information" ("CPNI") is as defined in the Act.
- 1.11. "Dedicated Transport" provides a local interoffice transmission path limited to the use of a single entity.
- 1.12. "Effective Date" is the date referenced in the opening paragraph on page 1 of the Agreement, unless otherwise required by the Commission.
- 1.13. "End Date" is the date referenced in the opening paragraph on Page 1 of this Agreement as the End Date.

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- 1.14. "Exchange Access" means Exchange Access as defined in the Act.
- 1.15. "Exchange Service" means Telephone Exchange Service as defined in the Act.
- 1.16. "Electronic Interfaces" means access to operations support systems consisting of pre-ordering, ordering, provisioning, maintenance and repair and billing functions.
- 1.17. "Facility" means the wire, line, circuit, transmission system, facilities, conduit, fiber and/or cable used to transport traffic between the Parties' respective networks.
- 1.18. "FCC" means the Federal Communications Commission, or any successor federal agency which performs essentially the same functions as the Federal Communications Commission.
- 1.19. "Final Order" means an order or orders entered by the Commission or the FCC or decision by a court, as to which (a) the time period for seeking reconsideration or review, or filing a judicial appeal, shall have elapsed without the filing of any petition for reconsideration, application for review, or appeal by any party or third party and, if the order or orders were granted by the Commission or FCC staff on delegated authority, the time period for review by the full Commission or FCC on its own motion shall have expired, without such review having been undertaken with respect to such Orders, or any aspect or portion thereof, or (b) a petition for reconsideration, application for review, or appeal has been filed or the full Commission or FCC has undertaken review on its own motion, but the order or orders shall have been reaffirmed or upheld or the challenge thereto shall have been withdrawn or dismissed and the applicable period for seeking further administrative or judicial review with respect to such action shall have expired without the filing of any action, petition or request for further review.
- 1.20. "Governmental Authority" means any federal, state, local, foreign, or international, court, government, department, commission, board, bureau, agency, official, or other regulatory, administrative, legislative, or judicial authority with jurisdiction over the subject matter at issue.
- 1.21. "Incumbent Local Exchange Carrier" ("ILEC") is any local exchange carrier that was, as of February 8, 1996, deemed to be a member of the Exchange Carrier Association as set forth in 47 C.F.R. Section 69.601(b) of the FCC's regulations.
- 1.22. "Interconnection" is as defined in the Act.
- 1.23. "Interconnection Arrangement" means the combination of POIs, Facilities and Interconnection Trunks/Trunk Groups used to originate or terminate traffic between the Parties' respective networks.
- 1.24. "Interconnection Prices" means the prices for Interconnection Arrangements as set forth in Attachment I, II, etc. – (Price Lists).

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- 1.25. "Interconnection Trunk" or "Interconnection Trunks" or "Interconnection Trunk Groups" mean the switch port interfaces(s) used, and the communications path created, to connect Carrier's network with Sprint's network for the purpose of exchanging Telecommunications traffic as provided herein.
- 1.26. "Interexchange Carrier" ("IXC") means a Telecommunications Carrier, other than a CMRS carrier that provides interexchange Telecommunications Services in connection with its other CMRS services, that provides, directly or indirectly, interLATA Telecommunications Services for hire.
- 1.27. "InterMTA Traffic" means Telecommunications traffic between Sprint and Metrocall that, at the beginning of the call, originates in one Major Trading Area but terminates in a different Major Trading Area.
- 1.28. "InterLATA Traffic" means Telecommunications traffic that, at the beginning of the call, originates in one LATA, but terminates in different LATA.
- 1.29. "IntraLATA Toll Traffic" means Telecommunications traffic as defined in accordance with Sprint's then-current intraLATA toll serving areas to the extent that said traffic originates and terminates within the same LATA.
- 1.30. "LATA" means Local Access Transport Area as defined the Act.
- 1.31. "LEC" means a Local Exchange Carrier as defined in the Act.
- 1.32. "LERG" means Local Exchange Routing Guide, a Bellcore reference document used by Telecommunications Carriers to identify NPA-NXX routing and homing information as well as network element and equipment designations.
- 1.33. "Local Traffic" means, for purposes of reciprocal compensation under this Agreement, Telecommunications traffic between Sprint and Metrocall that, at the beginning of the call, originates and terminates within the same MTA.
- 1.34. "MTA" means Major Trading Area as defined in 47 C.F.R. 24.202(a).
- 1.35. "Multiple Exchange Carrier Access Billing" ("MECAB") refers to the document prepared by the Billing Committee of the Alliance for Telecommunications Industry Solutions' (ATIS) Ordering and Billing Forum (OBF). The MECAB document, published by Bellcore as Special Report SR-BDS-000983, contains the recommended guidelines for the billing of an access service provided by two or more Telecommunications Carriers, or by one LEC in two or more states within a single LATA.
- 1.36. "Multiple Exchange Carrier Ordering And Design ("MECOD") Guidelines for Access Services – Industry Support Interface" refers to the document developed by the Ordering/Provisioning Committee of the Alliance for Telecommunications Industry Solutions' (ATIS) Ordering and Billing Forum (OBF). The MECOD

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document, published by Bellcore as Special Report SR-STS-002643, establishes recommended guidelines for processing orders for access service that is to be provided by two or more Telecommunications Carriers.

- 1.37. "Narrowband Commercial Mobile Radio Service," "Narrowband CMRS" or "NCMRS" means interconnected one-way paging or two-way paging narrowband personal communications services (NPCS), and point-to-point or point-to-multipoint wireless services, offered for profit to the public or such classes of eligible users as to be effectively available to a substantial portion of the public, and services incidental or ancillary thereto, including, but not limited to, the provision of ancillary calling provided as an optional capability to Metrocall's subscribers (*e.g.*, calls to and from voice services, such as voice mail and call forwarding). As of the Effective Date of this Agreement, Metrocall does not send two-way paging traffic to Sprint's network over the facilities covered under this Agreement. Should that situation change, Metrocall will give Sprint 60 days notice and the Parties will review the terms of this Agreement. The rules for NCMRS and NPCS services are documented in the FCC Rules, including, but not limited to, Title 47, Chapter I, Subchapter B, Parts 20, 22, 24 and 90 of the FCC Rules. In this Agreement, Metrocall's services will be referred to as "NCMRS Services."
- 1.38. "North American Numbering Plan" ("NANP") means the plan for the allocation of unique 10-digit directory numbers consisting of a three-digit area code, a three-digit office code, and a four-digit line number. The plan also extends to format variations, prefixes, and special code applications.
- 1.39. "Numbering Plan Area" ("NPA") is the three digit indicator (sometimes referred to as an area code) which is designated by the first three digits of each 10-digit telephone number within the NANP.
- 1.40. "NXX," "NXX Code," or "Central Office Code," or "CO Code" all refer to the three-digit switch entity indicator which is defined by the fourth, fifth and sixth digits of a 10 digit telephone number within the NANP.
- 1.41. "Parity" means, subject to the availability, development and implementation of necessary industry standard Electronic Interfaces, the provision by Sprint of services, Network Elements, functionality or telephone numbering resources under this Agreement to Metrocall, including provisioning and repair, at least equal in quality, delivery and response intervals to those offered to Sprint, its Affiliates or any other entity that obtains such services, Network Elements, functionality or telephone numbering resources from Sprint, including, but not limited to, other Telecommunications Carriers. Until the implementation of necessary Electronic Interfaces, Sprint shall provide such services, Network Elements, functionality or telephone numbering resources on a non-discriminatory basis to Metrocall as it provides to itself, its Affiliates, or any other entity that

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obtains such services, Network Elements, functionality or telephone numbering resources, including, but not limited to, other Telecommunications Carriers.

- 1.42. "Party" means either Sprint or Metrocall. "Parties" means both Sprint and Metrocall.
- 1.43. "Point Of Interconnection" ("POI") is a point of demarcation between the networks of Sprint and Metrocall where the Parties' Interconnect for the transport and termination of Telecommunications traffic from Sprint to Metrocall and/or from Metrocall to Sprint. The POI establishes the technical interface, the test point, and the agreed upon point for operational division of responsibility between Sprint's network and Metrocall's network with respect to a particular Interconnection Arrangement.
- 1.44. "Rate Center" means the specific geographic point and corresponding geographic area that have been identified by a LEC and, to the extent required by Applicable Laws, approved by the Commission, in a State. All NPA-NXXs are associated with specific Rate Centers for the purpose of rating calls.
- 1.45. "Rating Point" means a geographic point assigned to a Rate Center identified by a specific V&H coordinate that is used to calculate distance-sensitive end user traffic to or from particular NPA/NXX codes associated with such Rate Center.
- 1.46. "Remote Switches" are specialized network equipment in landline networks that are located separate from their host or control office. All Remote Switches have host or control offices where inter-office switching is performed. All or most of the central control equipment for the remote switch is located at the host or control office.
- 1.47. "Routing Point" means a specific geographic point identified by a specific V&H coordinate that a Telecommunications Carrier has designated as the destination to route inbound traffic to specified NPA/NXX Codes. The Routing Point need not be the same as the Rating Point, but the Rating Point must be located within the same LATA as the Routing Point. Central Office Switches are Routing Points for traffic to customers identified by numbers drawn from NPA-NXX designations, as stated in the LERG. Where Metrocall has not established Routing Points for its Dedicated NPA-NXXs in its own network (e.g, Type 1 interconnection), the Routing Point shall be the Sprint Central Office Switch where Metrocall's Interconnection Arrangements are interconnected.
- 1.48. "SAC Code" means Service Access Code, a non-geographic NPA typically associated with a specialized Telecommunications Service which may be provided across multiple geographic NPA areas (e.g., 500, Toll Free Service NPAs (8YY), 700 and 900).

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- 1.49. "Tariff" means a filing made at the state or federal level for the provision of a Telecommunications Service by a Telecommunications Carrier that provides for the terms, conditions and pricing of that service. Such filing may be required or voluntary and may or may not be specifically approved by the Commission or FCC.
- 1.50. "Telecommunications" is as defined in the Act.
- 1.51. "Telecommunications Carrier" means any provider of Telecommunications Services as defined in 47 U.S.C. 153, Section 3.
- 1.52. "Telecommunication Services" is as defined in the Act.
- 1.53. "Toll Free Service" means a Telecommunications Service provided with a dialing sequence that invokes toll-free, (i.e., 800-like) service processing. Toll Free Service includes calls to the Toll Free Service 8YY NPA SAC Codes.
- 1.54. "Transit Traffic" means Telecommunications traffic between two parties, one of which is a Party to this Agreement and one of which is not, that is carried by the other Party to this Agreement while acting as an intermediary.
- 1.55. "Trunk-Side" refers to a Central Office Switch interface that is capable of, and has been programmed to treat the Facility as, connecting to another switching entity, another Central Office Switch. Trunk-side interfaces offer those transmission and signaling features appropriate for the connection of switching entities, and cannot be used for the direct connection of ordinary telephone station sets.
- 1.56. "Type 1" means a type of Interconnection Trunk interface as technically defined in Bellcore Technical Reference GR-145-CORE and TA-NPL-000912 and as provided in accordance with this Agreement.
- 1.57. "Type 2A" means a type of Interconnection Trunk interface as technically defined in Bellcore Technical Reference GR-145-CORE and as provided in accordance with this Agreement.
- 1.58. "Type 2B" means a type of Interconnection Trunk interface as technically defined in Bellcore Technical Reference GR-145-CORE and as provided in accordance with this Agreement.
- 1.59. "Wire Center" denotes a building or space within a building which serves as an aggregation point on a given Telecommunication Carrier's network, where transmission Facilities are connected or switched. A Wire Center can also denote a building in which one or more Central Office Switches, used for the provision of Exchange Services and Exchange Access, are located.

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PART B -- GENERAL TERMS AND CONDITIONS

2. SCOPE OF THIS AGREEMENT

- 2.1. This Agreement specifies the rights and obligations of each Party with respect to the establishment of rates, terms and conditions for Interconnection with the other's network under Sections 251, 252 and/or 332, as applicable, of the Act ("Interconnection Services"). The Interconnection Services set forth herein address and include the transport and termination of all Telecommunications traffic to Metrocall from Sprint and from Metrocall to Sprint.
- 2.2. Either Party may take such other services not covered by this Agreement as the Parties may agree either pursuant to applicable state Tariffs or separate agreement ("Non-Interconnection Services"). The rates, terms and conditions for such Non-Interconnection Services shall be as designated in the applicable Tariff or separate agreement. Any charges for Non-Interconnection Services, such as directory assistance or operator services, will be billed at the standard rates for those services.
- 2.3. Sprint shall provide notice of network changes and upgrades which are provided to telephone exchange service providers under Sections 51.325 through 51.335 of Title 47 of the Code of Federal Regulations; provided, however, that Sprint shall provide Metrocall at least ninety (90) days prior written notice of any change that may directly and materially affect the Interconnection Arrangements set forth herein.
- 2.4. Notwithstanding any provision of this Agreement that might be construed to the contrary, nothing in this Agreement shall be deemed a waiver of the rights of either Party under Section 252(i) of the Act. To the extent provided in Section 252(i) of the Act and related provisions of the FCC's rules and regulations, Sprint shall make available to Metrocall any interconnection, service, or network element provided under an agreement approved under Section 252 of the Act to which Sprint is a party upon the same terms and conditions as those provided in that agreement. The Parties will execute a written agreement or amendment as appropriate for such interconnection, service or network element.
- 2.5. This Agreement is not intended and shall not be construed to prevent Metrocall from purchasing unbundled network elements ("UNE") from Sprint. Where technically feasible, Sprint shall make non-discriminatory access to unbundled network elements available to Metrocall in accordance with Applicable Laws for the provision of Telecommunications Services and Interconnection pursuant to the same terms and conditions as other Telecommunications Carriers. The Parties will execute a written agreement or amendment as appropriate for such unbundled network element. Upon Metrocall's request, the Parties agree that they will

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negotiate the specific network elements and the terms and conditions on which these network elements will be provided.

- 2.6. Nothing in this Agreement is intended or shall be construed as an admission or a waiver of any position either Party has taken before the FCC, the Commission, any court, any legislative body or other agency pertaining to (a) the nature and extent of terminating compensation, reciprocal compensation or Facilities charges that should apply in connection with the Interconnection of NCMRS networks and local exchange networks; (b) the procedures that should apply in the determination of Interconnection arrangements between CMRS carriers and ILECs; (c) the statutory sections under which the negotiations of such Interconnection Arrangements should or may be conducted; (d) the proper forum for the establishment of Interconnection Arrangements and the approval of Interconnection agreements; and/or (e) related NCMRS Interconnection matters.

3. REGULATORY APPROVALS

- 3.1. This Agreement, and any amendment or modification hereof, will be submitted to the Commission for approval in accordance with Section 252 of the Act. Sprint shall, with the advice and consent of Metrocall, prepare and file any and all necessary motions with the Commission to seek the requisite approval of this Agreement. The submission shall be made as soon as practicable following the execution of this Agreement by duly authorized representatives of both Parties. Sprint and Metrocall shall use their best efforts to obtain approval of this Agreement by any regulatory body having jurisdiction over this Agreement without material change. Metrocall shall not order services under this Agreement before the Effective Date except as may otherwise be agreed in writing between the Parties. In the event any Governmental Authority rejects any provision hereof, the Parties shall meet and negotiate in good faith to arrive at a mutually acceptable modification of the Agreement to secure the appropriate regulatory approvals in a manner that may reasonably be required to achieve approval with minimal material changes. To the extent that the modification materially relates to the economic benefits included in this Agreement, the Parties shall renegotiate, in good faith, all economic benefit provisions.
- 3.2. The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the text of the Act and the rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date ("Applicable Rules"). In the event of any amendment of the Act, any effective legislative action or any effective regulatory or judicial order, rule, regulation, arbitration award, or other legal action by a court or regulatory agency of competent jurisdiction ("Legal Actions") which revises, modifies, or reverses the Applicable Rules and such judicial order, rule, regulation, arbitration award, or other legal action becomes a Final Order (individually and collectively,

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"Amended Rules"), either Party may, by providing written notice to the other Party, require that the affected provisions of this Agreement be renegotiated in good faith, and the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification to the Agreement, which is prospective in nature, that conforms to the Amended Rules. To the extent that the modification relates to the economic benefits included in this agreement, the Parties agree to renegotiate all economic benefit provisions. The obligation of either Party to amend this Agreement under this Section, however, is conditioned on: (a) that Party's actual participation in such Legal Actions which resulted in the Amended Rules; or (b) that Party's constructive participation in such Legal Actions which shall mean that the Party so affected had notice of the Legal Action, as well as the right and the opportunity to participate, regardless of whether such Party actually participated (for purposes this Agreement, both Parties agree that arbitrations before the State Commissions do not come within this subsection (b)); or (c) the Legal Action is of such a nature that it applies generally to the Party affected as a member of the telecommunications industry in a generic fashion, but only as applicable to the arrangements under this Agreement within the State in which the determination on the Legal Action was rendered.

- 3.3. Any rates, terms or conditions developed or modified pursuant to Section 3.2 of this Agreement shall be substituted in place of those previously in effect notwithstanding any other provision of this Agreement to the contrary. Such new rates, terms, or conditions shall be deemed to have been effective under this Agreement as of the date such Amended Rules becomes or became a Final Order. Should the Parties be unable to reach agreement with respect to the applicability of such order or the resulting appropriate modifications to this Agreement, the Parties shall present any such issues to the Commission or the FCC to establish appropriate Interconnection Arrangements under the Act in light of the Amended Rules, it being the intent of the parties that this Agreement shall be brought into conformity with the then current obligations under the Act as determined by the Amended Rules. To the extent that the modification relates to the economic benefits included in this agreement, the Parties agree to renegotiate all economic benefit provisions.
- 3.4. Additional services, beyond those specified herein, requested by either Party relating to the subject matter of this Agreement will be incorporated into this Agreement by written amendment executed by duly authorized representatives of both Parties.

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4. TERM AND TERMINATION

- 4.1. This Agreement shall be deemed effective upon the Effective Date, or upon Commission approval, if required. No order or request for services under this Agreement shall be processed before the Effective Date, or upon Commission approval, if required.
- 4.2. For any Interconnection Arrangements covered by this Agreement that may already be in place, the Parties agree that, once this Agreement is deemed effective, the rates contained in the Attachments to this Agreement shall be applied to those arrangements. To the extent that Sprint is not able to bill the new rates for the pre-existing Interconnection Arrangements on the Effective Date, the Parties agree that, once billing is possible, the rate will be applied to the pre-existing Interconnection Arrangements retroactively to the Effective Date of this Agreement. The Parties agree that interim billing processes, as defined in subsequent Sections of this Agreement, will be implemented as needed.
- 4.3. Except as provided herein, Sprint and Metrocall agree to provide service to each other under the terms of this Agreement for a period from the Effective Date through and including the "End Date". Upon the expiration of the initial term, this Agreement shall continue in effect thereafter on a month-to-month basis until either Party terminates this Agreement on one hundred sixty (160) days prior written notice (such 160 days being the "Termination Notice Period"). This Agreement will remain in full force and effect during such Termination Notice Period and will remain in effect thereafter if the Parties mutually agree to continue this Agreement while such negotiations are on-going based upon continued good faith negotiations. Further, if the Parties are in arbitration or mediation before the appropriate Commission or the FCC based upon the foregoing request to negotiate, this Agreement will continue in effect until the effective date of a new agreement implementing a Final Order of the Commission or the FCC resulting from the negotiations, arbitration or mediation.
- 4.4. Either Party may terminate this Agreement in the event of a material breach of any of the terms or conditions hereof by the other Party, including the failure to make any undisputed payment when due, provided that the non-defaulting Party so advises the defaulting Party in writing of the event of the alleged default and the defaulting Party does not cure, or commence curing and proceed with due diligence to cure, the alleged default within sixty (60) days after written notice thereof.
- 4.5. Termination of this Agreement for any cause shall not release either Party from any liability which at the time of termination has already accrued to the other Party or which thereafter may accrue in respect to any act or omission prior to termination or from any obligation which is expressly stated herein to survive termination.

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5. POST TERMINATION INTERIM SERVICE ARRANGEMENTS

- 5.1. In the event that this Agreement expires under Section 4, it is the intent of the Parties to provide for interim service arrangements between the Parties at the time of expiration so that service to end users will not be interrupted. Therefore, except in the case of termination as a result of either Party's default under Section 4.4, or for termination upon sale, or for service made available under this Agreement and existing as of the End Date or as extended by Section 4.3, the Parties agree that those services may continue uninterrupted at the request of either Party provided that:
- 5.1.1. a new agreement is voluntarily entered into by the Parties or this Agreement is extended by mutual agreement; or
 - 5.1.2. service is provided under such standard terms and conditions or Tariffs approved by and made generally available by the Commission, if they exist at the time of expiration or under existing rules of the FCC or the Commission; or
 - 5.1.3. Metrocall elects to take service pursuant to the terms and conditions of an existing agreement between Sprint and another Telecommunications Carrier under Applicable Law.

6. CHARGES AND PAYMENT

- 6.1 In consideration of the services provided by each Party under this Agreement, neither Party shall bill the other party for services set forth in this Agreement, subject to the provisions of Article 36, Compensation for Transit and Transport, Termination and Numbering.

7. AUDITS AND EXAMINATIONS

- 7.1. As used herein "Audit" shall mean a comprehensive review of services performed under this Agreement; "Examination" shall mean an inquiry into a specific element of or process related to services performed under this Agreement. Either Party (the "Requesting Party") may perform one (1) Audit per twelve (12) month period commencing with the Effective Date. The Audit period will include no more than the preceding twelve (12) month period as of the date of the Audit request. The Requesting Party may perform Examinations as are reasonably necessary, with the assistance of the other Party, which will not be unreasonably withheld, at times and places mutually agreed to be the Parties; provided, however, that a Party may not request more than one (1) Examination at a time or more than one (1) per calendar month and the amount of time to conduct such Examination shall not exceed eight (8) hours.

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- 7.2. Upon 30 days written notice by the Requesting Party to the other "Audited Party," Requesting Party shall have the right through an independent audit firm to make an Audit, during normal business hours on Business Days, of any records, accounts and processes which contain information bearing upon the provision of the services provided and performance standards agreed to under this Agreement. Such independent audit firm shall be bound by the confidentiality provisions contained herein, but such audit firm shall be permitted to disclose the details of its audit, only to, with respect to Sprint, Sprint's Wholesale Carrier Markets group, and with respect to Metrocall, Metrocall's Wireless Interconnection group. Within the above-described 30-day period, the Parties shall reasonably agree upon the scope of the Audit, the documents and processes to be reviewed, and the time, place and manner in which the Audit shall be performed. Audited Party agrees to provide Audit support, including appropriate access to and use of Audited Party's facilities (e.g., conference rooms, telephones, copying machines) at the Requesting Party's sole cost and expense. The Audited Party may require that the Requesting Party and any person or entity involved in the Audit on behalf of the Requesting Party (e.g., accounting consultants) to execute an industry standard non-disclosure agreement related to any confidential and propriety information that may be reviewed as part of the Audit prior to the Audit.
- 7.3. Each Party shall bear its own expenses in connection with the conduct of the Audit or Examination. The reasonable cost of special data extraction required by the Requesting Party to conduct the Audit or Examination will be paid for by the Requesting Party. For purposes of this Section 7.3 a "special data extraction" shall mean the creation of an output record or informational report (from existing data files) that is not created in the normal course of business. If any program is developed to Requesting Party's specifications and at Requesting Party's expense, Requesting Party shall specify at the time of request whether the program is to be retained by Audited Party for reuse for any subsequent Audit or Examination.
- 7.4. Adjustments based on the Audit findings may be applied to the twelve (12) month period preceding the date of the Audit request. Adjustments, credits or payments shall be made and any corrective action shall commence within thirty (30) days from receipt of requesting Party's receipt of the final audit report to compensate for any errors or omissions which are disclosed by such Audit or Examination and are agreed to by the Parties. One percent (1.0%) per month or the highest interest rate allowable by law for commercial transactions, whichever is lower, shall be assessed and shall be computed by compounding monthly from the time of the error or omission to the day of payment or credit.
- 7.5. Neither such right to examine and audit nor the right to receive an adjustment shall be affected by any statement to the contrary appearing on checks or otherwise, unless such statement expressly waiving such right appears in writing,

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is signed by a duly authorized representative of the party having such right and is delivered to the other party in a manner sanctioned by this Agreement.

- 7.6. Notwithstanding the other Party's right to Audit or Examination, each Party to this Agreement will be responsible for the accuracy and quality of data submitted to the other Party. Each Party, whether or not in connection with an Audit or Examination, shall maintain reasonable records related to charges hereunder for a minimum of twelve (12) months from the date of an invoice and provide the other Party with reasonable access to such information as is necessary to determine amounts receivable or payable under this Agreement. Each Party will keep adequate records of its operations and transactions under this Agreement and shall furnish to the other Party such information as may be reasonably required for the administration of this Agreement.
- 7.7. This Article 7 shall survive expiration or termination of this Agreement for a period of one (1) year after expiration or termination of this Agreement.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1. Any intellectual property that originates from or is developed by a Party shall remain in the exclusive ownership of that Party. Except for a limited license to use patents or copyrights to the extent necessary for the Parties to use any Facilities or equipment (including software) or to receive any service solely as provided under this Agreement, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel. It is the responsibility of Sprint to ensure, at no separate or additional cost to Metrocall, that it has obtained any necessary licenses in relation to intellectual property of third parties used in Sprint's network to the extent of Sprint's own use of facilities or equipment (including software) in the provision of service to its end user customers and the use of Facilities and equipment between Metrocall and Sprint, but not that may be required to enable Metrocall to use any Metrocall Facilities or equipment (including software), to receive any service, to perform its respective obligations under this Agreement, or to provide service by Metrocall to its end user customers.
- 8.2. Following notice of an infringement claim against either Party based on the use by the other Party of a service or Facility, the other Party shall at its expense, procure from the appropriate third parties the right to continue to use the alleged infringing intellectual property.

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9. LIMITATION OF LIABILITY

- 9.1. Except as otherwise expressly set forth in this Agreement, neither Party shall be responsible to the other Party for any incidental indirect, special, consequential or punitive damages, including (without limitation) damages for loss of anticipated profits, revenues, or other economic loss, in connection with, or arising from, anything said, omitted, or done hereunder (collectively "Consequential Damages"), whether arising in contract or tort, provided that the foregoing shall not limit a Party's obligation under Article 10 to indemnify, defend, and hold the other Party harmless against amounts payable to third parties. Notwithstanding the foregoing, in no event shall either Party's liability to the other Party for a service outage exceed an amount equal to the greater of the proportionate a) switched access tariffed price for the service(s) provided for the period during which the service was affected, b) amount for termination compensation (assuming a termination compensation rate of the higher of \$0.0025/MOU or the highest rate negotiated with any NCMRS carrier) that would have been due (but for the Bill & Keep arrangement provided herein) during which the service was affected, or c) \$500, except if resulting from a Party's negligence or willful misconduct.
- 9.2. Solely by virtue of entering into this Agreement, neither Party assumes any liability for any act or omission of the other Party or third parties acting on behalf of the other Party in the furnishing of the Interconnection Arrangements, exchange of traffic hereunder, or in the provision of service to its customers.

10. INDEMNIFICATION

- 10.1. Each Party agrees to defend, indemnify, and hold harmless the other Party from and against any losses, lawsuits, claims, damages, liabilities, penalties, actions, proceedings or judgments of third parties ("Claims") for damage to tangible personal or real property and/or personal injuries (each a "Loss," and, collectively, "Losses") to the extent caused by the negligence or willful misconduct or omission of the indemnifying Party; provided, however, that in no event shall a Party indemnify or hold the other Party harmless for any Losses arising out of, in connection with, or relating to the indemnified Party's own acts or omissions.
- 10.2. Metrocall shall defend, indemnify and hold harmless Sprint from all Claims by Metrocall's subscribers.
- 10.3. Sprint shall defend, indemnify and hold harmless Metrocall from all Claims by Sprint's subscribers.
- 10.4. Subject to Section 8.1 hereof, with respect to Claims of patent infringement made by third persons, Sprint and Metrocall shall defend, indemnify, protect and save harmless the other Party from and against all claims, liabilities, or damages

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arising out of the improper combining with or use by the indemnifying Party of any Facility, apparatus, Interconnection Arrangement, system or method provided by that Party or its subscribers in connection with the Interconnection Arrangements furnished under this Agreement, except as may be implied by the Act or rules and regulations promulgated thereunder.

- 10.5. Each Party shall abide by and comply with all Applicable Laws and site rules relating to the Interconnection Arrangements, Facilities, and services provided hereunder on such other Party's premises, or activities (including those of its agents subcontractors and employees) performed, at or on the other Party's premises, and shall indemnify, defend, and hold the other Party harmless from any Claims solely resulting from, arising out of, or in connection with, the first Party's failure to comply with any of the foregoing. Except as otherwise provided in this Agreement, each Party agrees to reimburse the other for damage to premises or damages or losses of equipment resulting from the installation, use, maintenance or removal of Facilities, services or Interconnection Arrangements if caused by active negligence or willful misconduct of the Indemnifying Party, or due to malfunction of equipment in the indemnifying Party's network.
- 10.6. An indemnified Party shall have the right, but not the obligation, to participate, at its own cost and expense, in the defense or other opposition of any Loss through legal counsel selected by it and shall have the right, but not the obligation, to assert any and all cross-claims or counterclaims which it may have. An indemnified Party shall, at the indemnifying Party's expense, (i) at all times cooperate in all reasonable ways with, make its relevant files and records available for inspection and copying by, make its employees reasonably available to and otherwise render reasonable assistance to the indemnifying Party upon request, and (ii) not compromise or settle such Loss without the prior written consent of the indemnifying Party. If the indemnifying Party proposes to settle or compromise any Loss, the indemnifying Party shall give written notice to that effect (together with a statement in reasonable detail of the terms and conditions of such settlement or compromise) to the indemnified Party within a reasonable time prior to effecting such settlement or compromise. Notwithstanding anything contained herein to the contrary, an indemnified Party shall have the right to object to the settlement or compromise of any such Loss whereupon (i) the indemnified Party will assume the defense or other opposition of any such Loss and (ii) the indemnifying Party shall be released from any and all liability with respect to any such Loss to the extent that such liability exceeds the liability that the indemnifying Party would have had in respect of such a settlement or compromise.
- 10.7. Upon obtaining knowledge thereof, an indemnified Party shall promptly give the indemnifying Party written notice of any Loss that an indemnified Party has determined has given or could give rise to a claim for indemnification hereunder

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(a "Notice of Claim"). A Notice of Claim shall specify in reasonable detail the nature and all know particulars related to the Loss for which indemnification is sought under this Article 10, but failure to give a Notice of Claim shall not release a Party from indemnifying an indemnified Party, unless the indemnifying Party is actually prejudiced thereby.

- 10.8. The indemnifying Party shall have complete control over defense of the case and over the terms of any proposed settlement or compromise thereof. The indemnifying Party shall not be liable under this Article for settlement by the indemnified Party of any claim, lawsuit, or demand, if the indemnifying Party has not approved the settlement in advance, unless the indemnifying Party has had the defense of the claim, lawsuit, or demand tendered to it in writing and has failed to promptly assume such defense. In the event of such failure to assume defense, the indemnifying Party shall be liable for any reasonable settlement made by the indemnified Party without approval of the indemnifying Party.
- 10.9. When the lines or services of other Telecommunications Carriers are used in establishing Interconnection Arrangements to and/or from points not reached by a Party's lines, neither Party shall be liable for any act or omission of the other Telecommunications Carriers.
- 10.10. In addition to its indemnity obligations hereunder, each Party shall, to the extent allowed by law or Commission Order, provide, in its Tariffs and contracts with its customers that relate to any Telecommunications Services provided or contemplated under this Agreement, that in no case shall such Party or any of its agents, contractors or others retained by such Party be liable to any customer or third party for (i) any loss relating to or arising out of this Agreement, whether in contract or tort, that exceeds the amount such Party would have charged the applicable customer for the service(s) or function(s) that gave rise to such loss, and (ii) Consequential Damages (as defined in §9.1 above).
- 10.11. Neither Party shall be required to reimburse the other for any Claims or loss pursuant to this Article 10 where the amount in controversy is less than two hundred and fifty dollars (\$250.00).

11. CONFIDENTIALITY AND PUBLICITY

- 11.1. All information which is disclosed by one party ("Disclosing Party") to the other ("Recipient") in connection with this Agreement, or acquired in the course of performance of this Agreement, shall be deemed confidential and proprietary to the Disclosing Party and subject to this Agreement, such information including but not limited to, orders for services, traffic and usage information in any form, and CPNI ("Confidential and/or Proprietary Information"). The Recipient may make copies of the Confidential Information only as reasonably necessary to perform its obligations under this Agreement. All such copies will be subject to

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the same restrictions and protections as the original and will bear the same copyright and proprietary rights notices as are contained on the original.

- 11.2. During the term of this Agreement, and for a period of one (1) year thereafter, Recipient shall
 - 11.2.1. use the Confidential Information only for the purpose of performing under this Agreement,
 - 11.2.2. hold the Confidential Information in confidence and disclose it only to employees or agents who are entitled to receive the Confidential Information hereunder and who have a need to know it in order to perform under this Agreement, and
 - 11.2.3 safeguard the Confidential Information from unauthorized use or Disclosure using no less than the degree of care with which Recipient safeguards its own Confidential Information, but in any event at least reasonable care. If notwithstanding the Recipient's reasonable care, Recipient loses or makes an unauthorized disclosure of the Disclosing Party's Confidential Information, it will notify the Disclosing Party immediately and use its best efforts to retrieve the lost or wrongfully disclosed information. In no event shall Sprint disclose any of Metrocall's Confidential Information to any employee, officer, agent, or contractor of Sprint, or its Affiliates or subsidiaries, who is engaged in developing, planning, marketing, or selling end user wireless products or services, determining the costs thereof, or designing prices thereof to be charged end users, and Sprint shall store the Confidential Information it receives or generates during the term hereof in such a manner as to prevent disclosure to such persons.

- 11.3. Recipient shall have no obligation to safeguard Confidential Information
 - 11.3.1. which was at the time of receipt in the Recipient's possession free of restriction prior to its receipt from Disclosing Party,
 - 11.3.2. which is or becomes publicly known or available through no breach of this Agreement by Recipient,
 - 11.3.3. which is rightfully acquired or received by Recipient from a third party having no restrictions on its disclosure, or
 - 11.3.4. which is independently developed by personnel of Recipient to whom the Disclosing Party's Confidential Information had not been previously disclosed.

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- 11.4. Recipient may disclose Confidential Information if required by law, a court, the Commission, the FCC, or a governmental agency, provided that Disclosing Party has been notified of the requirement promptly after Recipient becomes aware of the requirement, and provided that Recipient undertakes all lawful measures to avoid disclosing such information until Disclosing Party has had reasonable time to obtain a protective order; provided, however, that the Recipient shall furnish the Disclosing Party with written notice of such requirement as soon as possible and prior to such disclosure and the Disclosing Party may then either seek appropriate protective relief from all or part of such requirement or, if it fails to successfully do so, it shall be deemed to have waived the Recipient's compliance with this Article 11 with respect to all or part of such requirement; provided, further, that the Recipient shall use all commercially reasonable efforts to cooperate with the Disclosing Party in attempting to obtain any protective relief that such Disclosing Party chooses to obtain as a result of such requirement. Recipient agrees to comply with any protective order that covers the Confidential Information to be disclosed. Further, either Party will have the right to disclose Confidential Information to any mediator, arbitrator, state or federal regulatory body, or a court in the conduct of any mediation, arbitration or approval of this Agreement, as long as, in the absence of an applicable protective order, the Disclosing Party has been previously notified by the Recipient in time sufficient for the Recipient to undertake all lawful measures to avoid disclosing such information and for Disclosing Party to have reasonable time to seek or negotiate a protective order before or with any applicable mediator, arbitrator, state or regulatory body or a court.
- 11.5. Each Party agrees that in the event of a breach of this Article 11 by Recipient or its representatives, Disclosing Party shall be entitled to see and, upon proper proof, obtain from a court of competent jurisdiction equitable relief, including injunctive relief and specific performance, without requirement of posting bond. Such remedies shall not be exclusive, but shall be in addition to all other remedies available at law or in equity.
- 11.6. Recipient agrees to return or destroy all Confidential Information in tangible form received from the Disclosing Party, including any copies made by the Recipient, within thirty (30) days after a written request is delivered to the Recipient, except for Confidential Information that the Recipient reasonably requires to perform its obligations under this Agreement. If a Recipient destroys such Confidential Information, then the Recipient shall certify destruction by a written letter of Recipient's authorized representative to the Disclosing Party.
- 11.7. Except as otherwise expressly provided in this Article 11, nothing herein shall be construed as limiting the rights of either Party with respect to its CPNI under Applicable Law, including without limitation § 222 of the Act.

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- 11.8. Nothing in this Article 11 is meant to limit the ability of either Party to seek redress of alleged violations of the Act, the rules and regulations of the FCC, the rules and regulations of the Commission, or other violations of law, through an inability to present facts and documents that relate to the alleged violation. To the extent appropriate, the Parties shall request that Confidential and/or Proprietary Information be held as such by the adjudicative body. It will not be a violation of this Agreement, however, if the information is not determined to be confidential and/or proprietary by that body.
- 11.9. Unless otherwise agreed, neither Party shall publish or use the other Party's logo, trademark, service mark, name, language, pictures, or symbols or words from which the other Party's name may reasonably be inferred or implied in any product, service, advertisement, promotion, or any other publicity matter, except that nothing in this paragraph shall prohibit a Party from engaging in valid comparative advertising. This §11.9 shall confer no rights on a Party to the service marks, trademarks and trade names owned or used in connection with services by the other Party or its Affiliates, except as expressly permitted by the other Party.
- 11.10. Neither Party shall produce, publish, or distribute any press release nor other publicity referring to the other Party or its Affiliates without the prior written approval of the other Party. Once this Agreement is filed with the Commission, it is specifically understood that the Parties may communicate with federal or state regulatory bodies, participate in industry meetings, or confer with other industry representatives regarding this Agreement and discuss the Agreement with the press, the industry, or other parties. Until this Agreement is filed with the Commission and made public, each Party shall obtain the other Party's prior approval before discussing this Agreement in any press or media interviews. In no event shall either Party mischaracterize the contents of this Agreement in any public statement or in any representation to a governmental entity or member thereof.

12. DISCLAIMER OF WARRANTIES

- 12.1. **EXCEPT AS SPECIFICALLY PROVIDED ELSEWHERE IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO QUALITY, FUNCTIONALITY OR CHARACTERISTICS OF THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR STATEMENT MADE BY EITHER PARTY OR ANY OF ITS AGENTS OR EMPLOYEES, ORAL OR WRITTEN, INCLUDING, BUT NOT LIMITED**

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TO, ANY SPECIFICATIONS, DESCRIPTIONS OR STATEMENTS PROVIDED OR MADE SHALL BE BINDING UPON EITHER PARTY AS A WARRANTY.

12.2. NEITHER PARTY ASSUMES ANY RESPONSIBILITY TO THIRD PARTIES WITH REGARD TO CORRECTNESS OF DATA OR INFORMATION SUPPLIED BY THE OTHER PARTY.

13. ASSIGNMENT AND SUBCONTRACT

13.1. Neither Party may assign, subcontract, or otherwise transfer its rights or obligations under this Agreement except under such terms and conditions as are mutually acceptable to the other Party and with such Party's prior written consent, which consent shall not be unreasonably withheld; provided that each Party may assign this Agreement to its parent or an Affiliate or any entity under its common control by providing written notice to the other Party of such assignment or transfer. Thereafter, the assignee shall be deemed Metrocall or Sprint and the original Party shall be relieved of such obligations and duties, except for matters arising out of events occurring prior to the date of such undertaking. Notwithstanding anything contained herein to the contrary, each Party shall have the unrestricted right to utilize subcontractors to perform its obligations hereunder. If consent is withheld by either Party, then this Agreement will be terminated as of the date of the sale of the underlying assets.

13.2. Except as provided in §13.1, any assignment of this Agreement or of the work to be performed, in whole or in part, or of any other interest of a Party hereunder, without the other Party's written consent, which consent shall not be unreasonably withheld or delayed, shall be void *ab initio*. It is expressly agreed that any assignment of moneys shall be void to the extent that it attempts to impose additional obligations other than the payment of such moneys on the other Party or the assignee additional to the payment of such moneys and a Party shall have no obligation to pay the assignee of moneys due hereunder unless and until such Party shall have been provided thirty (30) days prior written notice.

14. GOVERNING LAW

14.1. This Agreement shall be governed by and construed in accordance with the Act and the FCC's Rules and Regulations, and other Applicable Laws, except to the extent that federal would apply state law in interpreting this Agreement, the domestic laws of the state where this Agreement is filed, without regard to its conflicts of laws principles, shall govern.

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15. RELATIONSHIP OF PARTIES

- 15.1. It is the intention of the Parties that each Party shall be an independent contractor and nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other. Neither Party is a legal representative or agent of the other Party, nor does either Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party, or to assume any responsibility for the management of the other Party's business, unless otherwise expressly permitted by such other Party or in this Agreement.
- 15.2. Each Party is solely responsible for the services it provides to its customers and to other Telecommunications Carriers.

16. NO THIRD PARTY BENEFICIARIES

- 16.1. The provisions of this Agreement are for the benefit of the Parties hereto and their permitted assigns and not for any other person, and this Agreement shall not provide any person not a Party hereto with any remedy, claim, liability, reimbursement, right of action, or other right in excess of those existing without reference hereto. This shall not be construed to prevent Metrocall or Sprint from providing its Telecommunications Services to other Telecommunication carriers or end users.

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17. NOTICES

17.1. Except as otherwise provided herein, all notices or other communication hereunder shall be in writing and shall be given by personal delivery, facsimile, overnight mail, or sent by certified mail, postage prepaid, return receipt requested. Any notice shall be delivered using one of the alternatives mentioned in this Article and shall be directed to the applicable address indicated below or such address as the Party to be notified has designated by giving notice in compliance with this Article.

If to Sprint:

Director – Local Carrier Markets
MS: KSOPHM0310
Sprint Corporation
6480 Sprint Pkwy
Overland Park, KS 66251

If to Metrocall:

Ken Goldstein, Sr. Vice President
Metrocall, Inc.
6677 Richmond Highway
Alexandria, VA 22306

Telephone: 703-667-6677
Fax: 703-765-4385

With a copy to:

Senior Attorney
Sprint LTD
MS: KSOPKJ0505
5454 W. 110th St.
Overland Park, KS 66211

With a copy to:

Frederick M. Joyce
Alston & Bird LLP
601 Penn. Avenue, NW, North
Bldg, 11th Floor
Washington, DC 20001

Telephone: 202-756-3376
Fax: 703-756-3333

17.2. If delivery, other than certified mail, return receipt requested, is used to give notice, a receipt of such delivery shall be obtained and the notice shall be effective when delivered. If delivery via certified mail, return receipt requested, is used, notice shall be effective when received. The address to which notices or communications may be given to either Party may be changed by written notice given by such Party to the other pursuant to this Article 17.

18. WAIVERS

18.1. No waiver of any provisions of this Agreement and no consent to any default under this Agreement shall be effective unless the same shall be in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed.

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- 18.2. No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.
- 18.3. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default.

19. SURVIVAL

- 19.1. Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect to any act or omission occurring prior to the termination or from an obligation which is expressly stated in this Agreement to survive termination including but not limited to Articles 5, 6, 7, 8, 9, 10, 11, 12, 14, 21, 22, 23, and 32.

20. FORCE MAJEURE

- 20.1. Neither Party shall be deemed in default of this Agreement to the extent that any delay or failure in performance of any part of this Agreement results from any cause beyond its reasonable control and without its fault or negligence (collectively and individually "Force Majeure Event"), including, but not limited to, acts of God, acts of civil or military authority, government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, strikes, work stoppage affecting a supplier, third party network failures, cable cuts caused by third parties, power blackouts, unusually severe weather, complete inability to secure products or services of third persons or transportation facilities, or acts or omissions of transportation and common carriers; provided, however, that a Party shall be excused only to the extent that such acts or omissions relate to, or preclude the performance of, a Party's obligations hereunder. No delay or other failure to perform shall be excused pursuant to this Article 20 unless delay or failure and consequences thereof are beyond the control and without the fault or negligence of the Party claiming excusable delay or other failure to perform. Subject to Article 4 hereof, in the event of any such excused delay in the performance of a Party's obligation(s) under this Agreement, the affected Party's obligations affected by the Force Majeure Event shall be excused (and the other Party shall likewise be excused from performance of its obligations on a day-for-day basis to the extent such Party's obligations related to the performance so interfered with), on a day-to-day basis for as long as such Force Majeure Event interferes with such Party's ability to perform its obligations hereunder. In the event of such delay, the delayed Party shall perform its obligations at a performance level no less than that which it uses for its own operations. In the event of such performance delay or failure by Sprint, Sprint agrees to resume

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performance at Parity in a nondiscriminatory manner and not favor its own provision of, or the provision of its Affiliates', Telecommunications Services, or that of any other Telecommunications Carrier, above that of Metrocall.

21. DISPUTE RESOLUTION

- 21.1. Except as otherwise provided herein, any dispute, controversy or claim (individually and collectively, a "Dispute") arising under this Agreement shall be resolved in accordance with the procedures set forth in this section. In the event of a Dispute between the Parties relating to this Agreement, and upon the written request of either Party, each of the Parties shall appoint within five (5) business days after a Party's receipt of such request a designated representative at a higher level of management than the persons with direct responsibility for administration of this Agreement within the organization (e.g. not outside counsel) who has the authority to settle the Dispute. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the Dispute and negotiate in good faith in an effort to resolve such Dispute. The specific format for such discussions will be left to the discretion of the designated representatives; however, all reasonable requests for relevant information made by one Party to the other Party shall be honored.
- 21.2. The Parties recognize and agree that the FCC and the Commission have continuing jurisdiction to implement and enforce all terms and conditions of this agreement Dispute. If the Parties are unable to resolve issues related to a Dispute within thirty (30) days after the Parties' appointment of designated representatives as set forth above, a Party may (i) bring an action in an appropriate Federal district court, (ii) file a complaint with the FCC pursuant to Section 207 or 208 of the Act, (iii) seek a declaratory ruling from the FCC, (iv) file a complaint in accordance with the rules, guidelines and regulations of the Commission or (v) seek other relief under Applicable Law. If the FCC or the Commission appoints an expert(s) or other facilitator(s) to assist in its decision making, each Party shall pay half of the fees and expenses so incurred. During any Dispute proceeding each Party shall continue to perform its obligations under this Agreement, provided however, that neither Party shall be required to act in any unlawful fashion. Notwithstanding anything contained herein to the contrary, the rights and remedies set forth in this Section 21.2 are for illustrative purposes only and are not in addition to or in limitation of any rights or remedies that a Party may have or pursue at law or in equity or otherwise.
- 21.3. The FCC or Commission or other court of competent jurisdiction may direct payment of any or all funds plus applicable costs and late charges to be paid to either Party.

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- 21.4. Notwithstanding the foregoing, this section shall not be construed to prevent either Party from seeking and, upon proper proof, obtaining temporary equitable remedies, including temporary restraining orders, if, in its judgment, such action is necessary to avoid irreparable harm. Despite any such action, the Parties will continue to participate in good faith in the dispute resolution procedures described in this section.
- 21.5. Except as otherwise specifically provided for in this Agreement, no claims will be brought for disputes arising from this Agreement more than twelve (12) months from the date the occurrence which gives rise to the dispute is discovered or reasonably should have been discovered with the exercise of due care and attention.

22. COOPERATION ON FRAUD

- 22.1. The Parties agree that they shall cooperate with one another to investigate, minimize and take corrective action in cases of fraud in the use of the Interconnection Arrangements or services of either Party which are subject to this Agreement. The Parties fraud minimization procedures are to be cost effective and implemented so as not to unduly burden or harm one party as compared to the other.
- 22.2. Sprint shall provide billed number screening to Metrocall to prevent billing of inward calls to Metrocall telephone numbers on a received-collect or third-number basis in either a dedicated NPA-NXX or DID number block basis. There are no charges associated with this service. This service will be provided for all numbers assigned to Metrocall unless Metrocall informs Sprint in writing that it does not want this option with respect to certain telephone numbers assigned to Metrocall. Sprint will provide the screening instructions associated with Metrocall's telephone numbers for inquiries from Telecommunications Carriers which have arrangements with Sprint to access the billed number screening database. Metrocall shall not be responsible for reimbursing Sprint for toll charges to its numbers as long as billed number screening is included on Metrocall's numbers.

23. TAXES

- 23.1. Each Party purchasing Interconnection Arrangements, resale services, network elements, functions, Facilities, products and services under this Agreement shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, municipal fees, transfer, transaction or similar taxes, fees, or surcharges (hereinafter "Tax") imposed on, or with respect to, the Interconnection Arrangements, resale services, network elements, functions, Facilities, products and services under this Agreement provided by or to such Party, except for (a) any Tax on either Party's corporate existence, status, or income, or (b) any corporate

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franchise Taxes, (c) Taxes which are imposed directly on a Party's gross or retail revenues other than Taxes imposed on the providing Party that arise from the purchasing Party's use of Interconnection Arrangements, resale services, network elements, functions, Facilities, products and services purchased under this Agreement, or (d) any municipal Tax. Any such Taxes shall be shown as separate items on applicable billing documents between the Parties. The Party obligated to collect and remit Taxes shall do so unless the other Party provides such Party with the required evidence of exemption. The Party so obligated to pay any such Taxes may contest the same in good faith, at its own expense, and shall be entitled to the benefit of any refund or recovery, provided that such Party shall not permit any lien to exist on any asset of the other Party by reason of the contest. The Party obligated to collect and remit Taxes shall cooperate fully in any such contest by the other Party by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest.

- 23.2. If any taxing authority seeks to collect any Tax that was not billed by the providing Party, the purchasing Party may contest the same in good faith, at its own expense. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the taxing authority. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such Tax, or to avoid the existence of a lien on assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery. If it is ultimately determined that any additional amount of such Tax is due to the imposing tax authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify, and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any Tax, interest and penalties thereon, or other charges or payable expenses (including reasonable attorney's fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such Tax. Each Party shall notify the Party in writing of any assessment, proposed assessment, or other claim for any additional amount of such a Tax by taxing authority; such notice to be provided, if possible, at least twenty (20) days prior to the date by which a response, protest, or other appeal must be filed, but in no event later than ten (10) days after receipt of such assessment, proposed assessment, or claim.
- 23.3. If the purchasing Party disagrees with the providing Party's determination as to the application or basis for any such Tax, the Parties shall consult with respect to the imposition and billing of such Tax and with respect to whether to contest the imposition of such Tax. Notwithstanding the foregoing, the providing Party may

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continue to bill such Tax, unless the purchasing Party provides an opinion of tax counsel stating that it is more likely than not that such Tax is not applicable, and that the purchasing Party's position, would prevail in a contest to the imposition of such Tax

- 23.4. In any contest of a Tax by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may be reasonably necessary to pursue the contest.

24. AMENDMENTS AND MODIFICATIONS

- 24.1. No provision of this Agreement shall be deemed waived, amended or modified by either Party unless such a waiver, amendment or modification is in writing, dated, and signed by duly authorized representatives of both Parties. Neither Party shall be bound by any preprinted terms in addition to, or different from, those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications, unless expressly agreed to by a duly authorized representative of the receiving Party in writing.

25. SEVERABILITY

- 25.1. Subject to Article 3, if any part of this Agreement becomes or is held to be invalid for any reason, such invalidity will affect only the portion of this Agreement that is invalid; provided, however, that the Parties agree to meet and negotiate in good faith a mutually acceptable replacement provision to the invalid provision in a manner that maintains the original intent of the Parties. To the extent that the modification materially relates to the economic benefits included in this Agreement, the Parties shall renegotiate in good faith all economic benefit provisions. . In all other respects this Agreement will stand as if such invalid provision had not been a part thereof, and the remainder of the Agreement shall remain in full force and effect.

26. HEADINGS NOT CONTROLLING; JOINT WORK PRODUCT

- 26.1. The headings and numbering of Articles, Sections, Parts and Attachments in this Agreement are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.
- 26.2. This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party as the author or drafter of this Agreement.

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27. ENTIRE AGREEMENT

27.1. This Agreement, including all Parts and Attachments and subordinate documents attached hereto or referenced herein, all of which are hereby incorporated by reference, constitute the entire matter thereof, and supersede all prior or contemporaneous oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the subject matter thereof.

28. COUNTERPARTS

28.1. This Agreement may be executed in counterparts. Each counterpart shall be considered an original, and such counterparts shall together constitute one and the same instrument.

29. SUCCESSORS AND ASSIGNS

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

30. IMPLEMENTATION

30.1. This Agreement sets forth the overall terms and conditions, and standards of performance for services, processes, and systems capabilities that the Parties will provide to each other. The Parties agree to work in good faith to implement the terms of this Agreement promptly after its execution by both Parties. The Parties understand that the Interconnection Arrangements and provision of services described in this Agreement shall require technical and operational coordination between the Parties. Accordingly, the Parties agree to cooperate in good faith to further develop and identify those processes, guidelines, specifications, standards and additional terms and conditions necessary to support the terms of this Agreement.

30.2. The Parties recognize that they share a goal of ensuring that their customers receive the highest quality and most reliable service. To help achieve this goal, the Parties agree to meet every six (6) months, at the request of the other, to discuss procedures under this Agreement, and planned changes or enhancements of the Parties' respective networks.

31. COMPLIANCE WITH LAWS

31.1. Each Party will comply, at its sole expense, with all Applicable Laws relating to the performance of its obligations under this Agreement, including, but not limited to, safety and health regulations, relating to one Party's activities at the other Party's locations, and shall indemnify, defend, and hold the other Party

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harmless from any judgments, citations, fines, forfeitures, or other penalties which are assessed against such other Party as the result solely of such Party's failure to comply with any Applicable Law. No Interconnection Arrangement provided hereunder will be used knowingly by a Party for any purpose or in any manner, directly or indirectly, in violation of any Applicable Law or in aid of any unlawful act or undertaking.

32. FURTHER ASSURANCES

32.1. Each Party shall at any time, and from time to time, upon the written request of the other Party, execute and deliver such further documents, and do such further acts and things as the other Party may reasonably request, to effect the purposes of this Agreement. The Parties shall act in good faith and consistent with the intent of the Act in the performance of their obligations under this Agreement. Where notice, approval or similar action by a Party is permitted or required by any provision of this Agreement (including, without limit, the obligation of the Parties to further negotiate the resolution of new or open issues under this Agreement) such action shall not be unreasonably delayed, withheld or conditioned.

33. REMEDIES CUMULATIVE

33.1. Except as otherwise provided in this Agreement, no remedy set forth herein is intended to be exclusive and each and every remedy shall be cumulative and in addition to any other rights or remedies now or hereafter existing under Applicable Law or otherwise.

PART C - INTERCONNECTION AND RECIPROCAL COMPENSATION

34. INTERCONNECTION ARRANGEMENTS

- 34.1. Neither Party waives its rights to participate and fully present its respective positions in any proceeding dealing with compensation for Internet traffic.
- 34.2. Metrocall and Sprint presently are interconnected at numerous points in LATAs throughout Sprint's certificated service area. Each Party has provided the other Party with Interconnection at various reasonable and technically feasible points on its network in each LATA or Tandem Switch serving area. Having reviewed Metrocall's network information, the Parties agree that, taken as a whole and on balance considering the time of construction, the current Interconnection Arrangements represent an efficient network solution.
- 34.3. Metrocall and Sprint shall interconnect their respective networks as follows for the purpose of exchanging Telecommunications traffic under this Agreement:

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- 34.3.1. Sprint and Metrocall agree to deliver land-to-mobile and mobile-to-land Telecommunications traffic between their respective networks at any one or more technically feasible Points of Interconnection (collectively referred to as "POIs"). The Parties shall each designate their own POIs for the delivery of traffic by the other Party. Unless otherwise mutually agreed to by the Parties, Metrocall shall establish at least one physical POI in each LATA that Metrocall has an NXX Code or DIDs rated at a Sprint Central Office Switch for Sprint's delivery of Telecommunications traffic to Metrocall, except that Metrocall shall not be required to have two or more POIs in order to interconnect to End Office Switches subtending a single Tandem Switch even if the End Office Switches are in different or multiple LATAs. Both Parties agree that greater efficiencies may be gained through the use of two-way trunks. The Parties agree to cooperatively identify the locations and design parameters for possible two-way trunk deployment, although neither Party shall be obligated to use two-way trunks. Should Sprint deploy two-way trunks, Metrocall shall not incur costs for the deployment of the trunks, but only for its use of the trunks for two-way traffic.
- 34.3.2. For the purposes of this Agreement, and subject to the provisions in this §34.2.2, the Parties agree that Interconnection for the reciprocal transport and termination of Telecommunications traffic may take place at, and the POI for any Interconnection Arrangement shall be at, in the case of Telecommunications Traffic delivered to Sprint, at (i) a terminating End Office Switch, (ii) a Tandem Switch, and/or (iii) any other point as specified herein, and, in the case of Telecommunications Traffic delivered to Metrocall, in Metrocall's sole discretion at (i) a Sprint Central Office, (ii) NCMRS Mobile Switching Center, (iii) the collocated or non-collocated premises of an Interexchange carrier where Metrocall has leased facilities for the transport of Telecommunications traffic, including Local Traffic, (iv) the premises of a CLEC where Metrocall has leased facilities for the transport of Telecommunications traffic, including Local Traffic (whether or not collocated with Sprint), (v) the edge of Sprint's service exchange boundary, and/or (vi) for purposes of interconnection to a POI designated pursuant to (iii) or (iv), Metrocall may request that Sprint deliver the traffic to a collocation space of a designated third party carrier or the Sprint end of an IXC channel facilities arrangement and Sprint shall deliver such traffic at the DS0 (where available), DS1, DS3, or higher level, as requested by Metrocall. Sprint represents that where Metrocall currently has DS0 Facilities such DS0 Facilities shall be deemed available.
- 34.3.3. The following types of Interconnection Arrangements may be used for Interconnection between Sprint and Metrocall:

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- 34.3.3.1. Type 1 Interconnection. Type 1 Interconnection is a trunk interface with line treatment at an End Office Switch or Remote Switch subtending that End Office Switch that uses Trunk-Side signaling protocols in conjunction with a feature generically referred to as Trunk With Line Treatment. A Type 1 Interconnection uses multifrequency (“MF”) address pulsing and supervision. Type 1 Interconnection allows Metrocall to rate its own dedicated NXX Code, or portion thereof if Metrocall participates in geographic LRN-LNP number portability, within the local calling area of the End Office Switch where the Type 1 Interconnection is located or to utilize NXX Codes assigned to Sprint rated at such End Office Switch where the Type 1 Interconnection is connected.
- 34.3.3.2. Type 2A Interconnection. A Type 2A Interconnection is a Trunk-Side interface to a Sprint Tandem Switch that uses either MF or SS7 signaling and supervision at Metrocall’s choosing, where available. A Type 2A Interconnection provides access to the valid NXX Codes with End Office Switches subtending the Tandem Switch, including subtending End Office Switches of a Tandem Switch that are located in other LATAs. A Type 2A Interconnection cannot be used to reach Operator Services, 911/E911, or to carry 800 or 900 traffic. So long as Metrocall does not participate in LRN-LNP number pooling, Type 2A Interconnection requires that Metrocall establish its own dedicated NXX Code which may be rated at any End Office Switch and Remote Switches subtending End Office Switches which subtend the Tandem Switch where the Type 2A Interconnection is connected.
- 34.3.3.3. Type 2B Interconnection. A Type 2B Interconnection is a Trunk-Side interface to a Sprint End Office Switch that uses either MF or SS7 signaling and supervision at Metrocall’s choosing, where available. A Type 2B Interconnection only provides access to the valid NXX Codes served by that End Office Switch and Remote Switches subtending that End Office Switch and cannot be used to reach EAS points, operator services, 911/E911, or to carry 800 or 900 traffic. So long as Metrocall does not participate in LRN-LNP number pooling, Type 2B Interconnection requires that Metrocall establish its own dedicated NXX Code which may be rated at the End Office Switch and Remote Switches subtending End Office Switch where the Type 2B Interconnection is connected.

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34.3.3.4. Other Technically Feasible Point. Interconnection shall also be provided at other technically feasible points in Sprint's network at the request of Metrocall and subject to the negotiation of mutually acceptable provisioning and compensation arrangements. The Parties will attach or incorporate as amendments to this Agreement technical descriptions, and if required, descriptions of associated compensation arrangements, to cover any such additional Interconnection Arrangements.

34.3.4. The Parties also agree that they will work together cooperatively to ensure that efficient Interconnection is retained during the term of this Agreement as the Parties modify, enhance or consolidate their networks. Nothing in this Agreement is intended to require the Parties to modify their existing Points of Interconnection or add additional Points of Interconnection. Each Party agrees that it will not impose dedicated transport compensation obligations on the other Party for Interconnection Arrangements that will cause the other Party's network design and resulting Interconnection Arrangements to become less than an efficient network solution. Based on the joint planning and forecasting requirements, the Parties agree that, in order to keep transport costs balanced for the exchange of Telecommunications traffic, routing flexibility must be maintained which will allow the use of less costly shared or common transport within each Party's network to permit the use of the shortest available dedicated Facility between the Parties' networks for traffic exchange.

34.3.5. Interconnection to a Metrocall location within an MTA will provide Sprint with access to Metrocall's network within that MTA.

34.3.6. Following execution of an appropriate agreement, Sprint agrees to provide Metrocall with Collocation space in its Wire Centers consistent with the Act, FCC and Commission rules. Sprint shall use its best efforts to provide new Collocation arrangements no later than 90 days after Metrocall's firm order.

34.3.7. The provisions of this Article 34 shall apply to Sprint's Interconnection to Metrocall's network for the purpose of routing all the types of Telecommunications traffic, including, but not limited to, Local Traffic, Transit Traffic, InterMTA Traffic, and InterLATA Traffic. This provision does not preclude Sprint from charging its customers local, toll, or access rates as appropriate. Nothing in this Section is intended to interfere with Metrocall's designation of a Rating Point under §34.3.3.

34.3.8. Metrocall may designate the Interconnection interface it wants to receive from the following combinations where available: Trunk Side terminations

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at voice grade, DS0, DS1, or higher than DS1 for Type 1 and 2B, and Trunk Side at DS1 or higher for Type 2A.

34.4. Establishing a Rate Center.

34.4.1. When Sprint delivers traffic to or receives traffic from Metrocall on a Type 2A basis, Metrocall may establish a Rate Center for each NXX that is located within the serving area of the Tandem Switch to which Metrocall interconnects when the chosen Rate Center meets the following criteria:

34.4.1.1. it is a Sprint Central Office Switch or Remote Switch; and

34.4.1.2. it is served by the same access Tandem Switch.

34.4.2. For Type 2A Interconnection, until such time as the assignment of less than whole NPA-NXX codes to each Rate Center is technically feasible and economically reasonable for a Party and that Party implements a program for the assignment of less than whole NPA-NXX Codes, such Party shall assign whole NPA-NXX Codes to each Rate Center.

34.4.3. Metrocall will also designate a Rating Point and Routing Point for each NPA/NXX code assigned for Metrocall's use. Metrocall shall designate one location for each Rate Center as the Routing Point for the NPA-NXX Codes assigned for Metrocall's use associated with such Rate Center, and such Routing Point shall be within the same LATA as the Rate Center, but not necessarily within the Rate Center area itself. Rate Center areas may be different for each Party, as appropriate. The Routing Point associated with each NPA-NXX Code assigned to Metrocall's need not be the same as the corresponding Rating Point, nor must it be located within the corresponding Rate Center area, nor must there be a unique and separate Routing Point corresponding to each unique and separate Rate Center. Notwithstanding the above, the Routing Point may be in a different LATA than the Rating Point in circumstances where a Routing Point is located in the same Tandem Switch serving territory as the Rating Point.

34.4.4. Notwithstanding anything to the contrary contained herein, nothing in this Agreement is intended to, and nothing in this Agreement shall be construed to, in any way constrain either Parties' choices regarding the size of the local calling area(s) that either Party may establish for mobile-to-land traffic originated by its customers, which local calling areas may be larger than, smaller than, or identical to, the other Party's local calling areas. For land-to-mobile Telecommunication traffic, each Party will respect the Rate Centers and Rating Points for the other Party's NPA-NXX Codes and, to the extent that a call is considered within the local calling

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area when made to a Rate Center of such Party located at the same Wire Center as the Rate Center established by the other Party for a NPA-NXX, calls to such other Party's NPA-NXX Code shall also be considered within the local calling area.

- 34.4.5. Based on the unique nature of NCMRS traffic and Metrocall's current and planned network configuration and services, Metrocall agrees that numbers from NPA/NXX blocks will be utilized for marketing its NCMRS product(s) to customers within the landline local calling scope of the exchange where the NPA/NXX blocks are assigned.
- 34.5. Sprint agrees to provide Metrocall with Reverse Toll Billing Option ("RTBO") upon request in those LATAs where Sprint provides RTBO to any other CMRS carrier. RTBO permits Sprint's customers to call certain Metrocall customers from any location within the LATA without incurring a toll charge. Currently, RTBO is only available on a whole NXX basis. If at any time during the term hereof, RTBO may be offered on a less than full NXX basis, Metrocall may implement RTBO on a less than full NXX basis. Metrocall warrants and represents that the provision of RTBO is solely used in conjunction with its marketing and provision of its NCMRS services in areas where it has numbers assigned. Sprint may discontinue RTBO to Metrocall in a LATA if Sprint is discontinuing RTBO for all CMRS carriers in the such LATA so long as Sprint provides Metrocall with at least nine (9) months prior written notice; provided, however, that if Sprint agrees to provide, is obligated to provide, or otherwise provides RTBO to any other CMRS provider within the same LATA where Metrocall has RTBO services ("Competing Carrier") or if Sprint has been unable to convert all of Metrocall's RTBO NPA-NXXs to standard billing by the cut off, then, at Metrocall's request, Sprint shall (a) continue to provide RTBO to Metrocall on existing RTBO NPA-NXXs in such LATA until (i) Sprint provides Metrocall with one hundred twenty (120) days prior written notice that Sprint no longer provides RTBO to any Competing Carrier in that LATA and (ii) Sprint converts all of Metrocall's RTBO NPA-NXXs to standard billing, and (b) establish new RTBO NPA-NXXs for Metrocall upon request, but only if Sprint has provided any Competing Carrier with new RTBO NPA-NXXs or with RTBO NPA-NXXs which have been converted from standard billing. If Sprint extends the period of time in which it provides RTBO to a CMRS Carrier under this Section, Sprint shall provide Metrocall with the same notice, if any, of the date on which RTBO will no longer be available to Metrocall as Sprint provides to all other CMRS providers having RTBO service, but no less than one hundred twenty (120) days prior written notice of the date on which RTBO will no longer be available to Metrocall. Metrocall reserves the right to object to or protest any such termination of RTBO service with the Commission or the FCC.

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- 34.6. When local routing number local number portability (“LRN/LNP”) is implemented at a Sprint End Office Switch which subtends a Tandem Switch to which Metrocall maintains a direct connection, if Metrocall has been assigned telephone numbers out of such End Office, Sprint shall cooperate in good faith and assist Metrocall upon request in porting such numbers in such fashion that calls to such numbers are routed to Carrier’s MSC via the Tandem level interconnection, with the rating of such numbers remaining at the End Office Switch from which the numbers were ported.

35. TERMINATION OF TRAFFIC

- 35.1. Each Party agrees to establish Interconnection Trunk Groups at its own expense from the POI to their designated switching center(s) including, but not limited to, those containing End Office Switches, Tandem Switches, and MSCs, if available and necessary.
- 35.2. In the event that Metrocall decides to implement SS7 signaling, the Parties shall negotiate in good faith the terms and conditions for such SS7 signaling.
- 35.3. In the event SS7 facilities are not available from Sprint or where Metrocall does not decide to implement SS7 signaling, Metrocall may, at its option, obtain multi-frequency signaling. If Sprint passes automatic number identification (“ANI”) to any other CMRS carrier using MF or DTMF signaling, then Sprint shall provide such ANI information to Metrocall on the most favorable terms and conditions as any other CMRS carrier
- 35.4. Where available and the Parties have deployed SS7 signaling, the Parties will cooperate in the termination of TCAP messages to facilitate full inter-operability of SS7-based features between their networks, including all CLASS features and functions, to the extent each Party offers such features and functions to its own end-users.
- 35.5. As of the Effective Date of this Agreement, the parties understand that Metrocall does not originate traffic that terminates at Sprint’s network. Should that situation change, the terms contained in this Section would apply. Each Party will transport calls originating on its network and Transit Traffic accepted for delivery to the other Party to the respective POI between the Parties’ networks. For Transit traffic, it is the separate responsibility of each Party to negotiate Interconnection, traffic transport and termination arrangements, and compensation arrangements, directly with other Telecommunications Carriers with whom they exchange traffic. Each Party will deliver all traffic destined to the other Party regardless of the Telecommunications Carrier originating such traffic; other than delivering such traffic, such Party has no responsibility for traffic originated by another Telecommunications Carrier and routed via such Party’s network to the other Party.

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35.6. Each Party will ensure that its facilities are compatible with the mutually agreed upon transmission and facility specifications.

36. COMPENSATION FOR TRANSIT AND TRANSPORT, TERMINATION, AND NUMBERING

36.1. In consideration of Sections 34.2, 36.2, 36.3 and 36.4 hereof, Sprint and Metrocall agree to a bill-and-keep reciprocal compensation arrangement for the termination of all Telecommunications traffic exchanged between the Parties hereunder and there shall be no mutual compensation for traffic that originates on the other Party's network. No compensation shall be paid by the other Party for terminating any Telecommunications traffic that originates on or transits the other Party's network, including but not limited to, Local Traffic, InterMTA Traffic, InterLATA Traffic, IntraLATA Toll Traffic, and Transit Traffic. Each Party shall also assume all costs and expenses associated with the provision of Telecommunications traffic delivered by it to the other Party. The Parties acknowledge that as of the Effective Date of this Agreement, Metrocall does not deliver traffic to Sprint's network. Metrocall shall not be responsible for costs or expenses associated with the provision of Sprint's own telecommunications traffic.

36.2. In consideration of Sections 34.2, 36.1, 36.3 and 36.4 hereof, Sprint and Metrocall agree to a bill-and-keep compensation arrangement for the transport of all Telecommunications traffic exchanged between the Parties, including but not limited to, Local Traffic, InterMTA Traffic, InterLATA Traffic, IntraLATA Toll Traffic and Transit Traffic, as follows: (a) Sprint shall pay for all recurring and non-recurring charges associated with the Interconnection Arrangements within Sprint's exchange areas, used to deliver all land-to-mobile traffic to Metrocall's designated POI and (b) Metrocall agrees to pay (i) for all recurring and non-recurring charges associated with the Interconnection Arrangements used to deliver mobile-to-land traffic to Sprint's designated POI and (ii) all charges associated with meet-point Interconnection Arrangements outside Sprint's exchange areas used to deliver land-to-mobile traffic. Each Party agrees to pay for their own network from the POI to their respective Central Office Switch.

36.3. In consideration of Sections 34.2, 36.1, 36.2 and 36.4 hereof, except as provided in Section 35.2 hereof, Sprint and Metrocall agree to a bill-and-keep arrangement with respect to any charges associated with numbering, signaling or dialing, associated with the delivery of all Telecommunications traffic to the other Party. In addition, neither Party shall charge the other Party for any number management or dial pulsing associated with Telecommunications traffic delivered by it to the other Party hereunder.

36.4. In consideration of Section 34.2, 36.1, 36.2, and 36.3 hereof, Sprint and Metrocall agree that Metrocall may not deliver to Sprint, via the Interconnection

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Arrangements provided hereunder, mobile-to-land Telecommunications traffic in excess of ten percent (10%) of the land-to-mobile Telecommunications traffic delivered by Sprint to Metrocall. If the mobile-to-land Telecommunications traffic delivered pursuant to the Interconnection Arrangements provided hereunder exceeds ten percent (10%) of the land-to-mobile Telecommunications traffic, the Parties shall negotiate in good faith modifications to this Agreement to reflect each Parties' respective transport obligations.

- 36.5. If, and only to the extent, Sprint and Metrocall jointly provide Exchange Access services to IXCs, the Parties agree to conform to MECAB and MECOD guidelines for meet-point billing arrangements, where possible.
- 36.6. No discrete development charges shall be imposed on Metrocall or Sprint for the establishment of standard meet point billing arrangements.

PART D - NETWORK MAINTENANCE AND MANAGEMENT

37. GENERAL REQUIREMENTS

- 37.1. The Parties will work cooperatively to install and maintain a reliable network. Each Party will ensure that its facilities are compatible with the mutually agreed upon transmission and facility specifications contained herein. The Parties will exchange appropriate information (e.g., maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the government, etc.) to achieve this desired reliability. Any Party may use or request protective network traffic management controls such as 7-digit and 10-digit code gaps on traffic to or from the other Party's network, when required to protect its network from congestion due to Interconnection Arrangement failures, switch congestion, or failure or focused overload. The Parties will immediately notify each other of any protective control action planned or executed.
- 37.2. Each Party shall provide a 24 hour contact number for network traffic management issues to the other's surveillance management center. A fax number must also be provided to facilitate event notifications for planned mass calling events. The Parties shall agree upon appropriate network traffic management control capabilities. The Parties shall cooperate and share pre-planning information regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes, in order to prevent or mitigate the impact of these events on the public switched network. Where the capability exists, originating or terminating traffic reroutes may be implemented by any Party to temporarily relieve network congestion due to Interconnection Arrangement failures or abnormal calling patterns. Reroutes will not be used to circumvent normal trunk servicing. Expansive controls will only be used when the Parties

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mutually agree. The Parties reserve the right to block alternate routed calls incoming to their networks in the event of significant network failure in order to protect their network from overload, congestion, or failure propagation. If Sprint implements a process by which it notifies other CMRS providers when Sprint blocks alternate routed traffic to such providers, Sprint will make such process available to Metrocall on the same terms and conditions as it is available to such other CMRS providers.

- 37.3. Sprint will process Metrocall provisioning, installation, and maintenance requests at Parity.
- 37.4. In accordance with Part B., Section 2.3 of this Agreement, the Parties agree to provide each other reasonable notice of network changes. If either Party proposes to make any permanent changes in the Interconnection Arrangements provided for in this Agreement, or any attachments, or any permanent change in its operations that would materially affect the other Party's operations or services once the Interconnection Arrangements are installed, the changing Party shall give reasonable advance written notice to the other Party of such changes, advising when such changes will be made. All such changes shall be coordinated with the non-changing Party. Nothing in this Section 38.4 shall affect the Parties' rights and obligations under this Agreement or Applicable Laws. This includes the information necessary for the transmission and routing of services using each other's facilities or networks, as well as other changes that would affect the interoperability of those facilities and networks. At a minimum, Sprint shall comply with all applicable FCC and Commission notification requirements. Correct LERG data is considered part of this requirement. Subject to the provisions of Part B., Section 2.3 of this Agreement, each Party shall be solely responsible, at its expense, for the overall design of its services and Facilities and for any redesigning or rearrangement of its services and Facilities that may be required because of changes in Interconnection Arrangements, operations or procedures of the other Party, minimum network protection criteria, or operating or maintenance characteristics of the Interconnection Arrangements.
- 37.5. Sprint will ensure that all applicable alarm systems that support Metrocall customers are operational and the support databases are accurate. Sprint will respond to Metrocall customer alarms at Parity.
- 37.6. Both Parties shall work cooperatively to prevent use of any Interconnection Arrangement or service provided under this Agreement in any manner that interferes with third parties in the use of their service, prevents third parties from using their service, impairs the quality of service to other Telecommunications Carriers or to either Party's customers, causes electrical hazards to either Party's personnel, damage to either Party's equipment, or malfunction of either Party's billing equipment. At the earliest practicable time, each Party will provide the

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other verbal notice of any such network harm that could effect the other Party, its network, or its customers.

- 37.7. Sprint shall provide Metrocall with the same local dialing parity available to Telephone Exchange Service providers under the Act.
- 37.8. The Parties will exchange all Local Traffic between their networks using only Interconnection Arrangements provided under this Agreement. Further, the Parties shall deliver all traffic destined for the other Party's network in accordance with the serving arrangements defined in the LERG, except when Metrocall's MSC serves NPA-NXXs, some of which home on a Sprint Tandem Switch, and some of which home on a non-Sprint Tandem Switch. In this case all traffic from the Sprint Tandem Switch may be delivered over a direct Interconnection Arrangement to the Metrocall MSC regardless of dialed NPA-NXX.
- 37.9. Each Party will follow the Industry Carriers Compatibility Forum ("ICCF") Central Office Code Guidelines, or modifications that may be made to those Guidelines by the Network Interconnection/Interoperability Forum ("NI/IF").
- 37.10. Multiple orders that comprise a major project that directly impact the other Party may be submitted at the same time, and then implementation will be jointly planned and coordinated. Major projects are those that require the coordination and execution of multiple orders, or related activities between and among Sprint and Metrocall work groups, including, but not limited to, the initial establishment of Interconnection Arrangements and service in an area, designated NPA-NXX Code relocations, re-homes, Facility grooming or major network rearrangements.

38. RESTORATION OF SERVICE IN THE EVENT OF OUTAGES

- 38.1. Sprint shall perform restoration of service in the event of outages due to equipment failures, human error, or a Force Majeure Event at Parity, in accordance with the following priorities. First, restoration priority shall be afforded to those network elements and services affecting its own end-users or identified Metrocall end-users relative to national security or emergency preparedness capabilities and those affecting public safety, health, and welfare, as those elements and services are identified by the appropriate government agencies. Second, restoration priority shall be afforded between Sprint and Metrocall in general. Third, should Sprint be providing or performing tandem switching functionality for Metrocall, third level priority restoration should be afforded to any trunk. Lastly, all service shall be restored as expeditiously as practicable and in a non-discriminatory manner.
- 38.2. The Telecommunications Service Priority (TSP) process provides for a circuit restoration process whereby certain identified Metrocall national security and emergency preparedness circuits will be afforded expedited restoral treatment and

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general trunking and interconnection should take priority over any other non-emergency Sprint network requirement.

39. SERVICE PROJECTIONS

- 39.1. Sprint and Metrocall will provide to each other a non-binding two-year intercompany forecast for traffic utilization over the Interconnection Trunk Groups as mutually agreed. The forecast shall include the following information for each Interconnection Trunk Group.
 - 39.1.1. Common Language Location Identifier (CLLI-MSG) codes for Tandem and End Office locations, which are described in Bellcore documents BR 795-100-100 and BR 795-400-100;
 - 39.1.2. Two-Six Codes, as assigned and provided by Sprint;
 - 39.1.3. Quantity of Interconnection Trunks in service;
 - 39.1.4. Share usage and share overflow information. This information will be derived by taking the highest usage of a twenty (20) Business Day period (generally a four (4) week period, not to include weekends or holidays) from the previous twelve (12) months, or other interval as local conditions warrant and are mutually agreed to by both Parties;
 - 39.1.5. Major network projects that affect the other Party. Major network projects include, but are not limited to, trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities by either Party that are reflected by a significant increase or decrease in trunking demand for the two-year forecast window.

40. QUALITY OF SERVICE

- 40.1. The Parties agree that Interconnection Trunks and Interconnection Trunk Groups provided hereunder shall at all times have a grade of service, availability and quality at Parity with that provided by Sprint for its own Exchange Services and Exchange Access Services. Metrocall and Sprint shall share responsibility for all control office functions for Interconnection Trunks and Interconnection Trunk Groups, and both Parties shall share the overall coordination, installation, and maintenance responsibilities.
- 40.2. A blocking standard of one percent (1%) during the average busy hour, as defined by Sprint's standards, for final trunk groups between a Metrocall end office and a Sprint access Tandem carrying meet point traffic shall be maintained. All other final trunk groups are to be engineered with a blocking standard of one percent (1%). Direct end office trunk groups are to be engineered with a blocking standard of one percent (1%). In any event, Interconnection Arrangements shall

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be provided at a level of quality at least equal to Parity. When the Interconnection Arrangements exceed measured blocking thresholds on an average time consistent busy hour for a twenty (20) Business Day study period, the Parties shall cooperate to modify the Interconnection Arrangements to meet the foregoing blocking standard as soon as practicable. The Parties agree that twenty (20) days is the study period duration objective.

- 40.3. Metrocall and Sprint shall negotiate a process to expedite network augmentations and other orders when initiated by the other Party.
- 40.4. Metrocall and Sprint shall:
 - 40.4.1. Provide trained personnel with adequate and compatible test equipment to work with each other's technicians;
 - 40.4.2. Notify each other when there is any change affecting service, including the due date;
 - 40.4.3. Coordinate and schedule testing activities of their own personnel, and others as applicable, to ensure the Interconnection Trunks/Trunk Groups and Facilities are installed and comply with acceptance test requirements and the service order for such Interconnection Trunks, Trunk Groups and Facilities, meet agreed-upon acceptance test requirements, and are placed in service by the due date;
 - 40.4.4. Perform sectionalization to determine if a trouble is located in its Facilities or Interconnection Trunks prior to referring the trouble to each other;
 - 40.4.5. Provide each other with a trouble reporting number that is readily accessible and available 24 hours/7 days a week and any changes to this contact arrangement must be immediately provided to the other Party;
 - 40.4.6. Metrocall shall provide Sprint test line numbers and access to test lines, including a test line number that returns Answer Supervision in each of Metrocall's Designated NPA-NXXs; and
 - 40.4.7. Notify the other Party and obtain the other Party's consent (except in the case of an emergency that threatens the integrity of the network) prior to removing Interconnection Trunks or Facilities from service.
- 40.5. The Parties will cooperatively plan and implement coordinated repair procedures for the Interconnection Arrangements to ensure trouble reports are resolved in a timely and appropriate manner. Each Party will provide the other Party a 24 hours a day, seven days a week, network contact to whom to report trouble associated with the Parties' Interconnection Arrangements.

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PART E – NXX UPDATES

41. GENERAL REQUIREMENTS

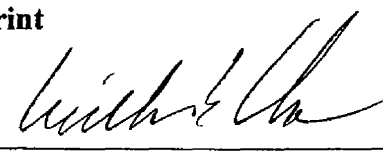
- 41.1. It is the responsibility of each Party to program and update its own switches, MSC, and other network systems to recognize and route traffic to the other Party's assigned NXX Codes. Neither Party shall impose fees or charges on the other Party for required programming and switch updating activities or for the switch routing software necessitated by the opening of NPAs or NXX Codes. Notwithstanding anything contained herein to the contrary, neither Party shall charge the other Party for any functionality in its Central Office Switches, or other telecommunications equipment, required to recognize, switch, route, and deliver Telecommunications traffic to the other Party.
- 41.2. Sprint will forward a confirmation to Metrocall in response to Metrocall's ASR to add Metrocall's NPA-NXXs to Interconnection Trunk Groups, when Metrocall submits such ASR to Sprint. Sprint shall add such NPA-NXX Codes at no charge.
- 41.3. Both Parties will provide a contact point regarding the establishment of routing or modification of routing to full NXX Codes.
- 41.4. The NCMRS services provided by Metrocall are currently excluded by the FCC from number portability requirements. Accordingly, Metrocall has no obligation to provide number portability. If at some point, Metrocall's services are subject to number portability requirements, the Parties shall negotiate in good faith the changes necessary in this Agreement to effectuate number portability in accordance with Applicable Laws. If Metrocall is then required to port numbers, Sprint will not administer the database for those numbers, absent separate agreement.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by its duly authorized representatives.

Metrocall, Inc.

By: 
Name: KENNETH GOLDSTEIN
Title: SR VP ENG
Date: 4/23/02

Sprint

By: 
Name: William E. Cheek
Title: President – Wholesale Markets
Date: 4/26/02

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