

SECOND AMENDMENT AGREEMENT
TO
CONTRACT #B-04-002 BETWEEN
THE STATE OF CONNECTICUT
AND
NEXTEL COMMUNICATIONS OF MID-ATLANTIC, INC.
FOR
TELECOMMUNICATION NETWORK SERVICES

This Second Amendment Agreement (the "Amendment") is made as of the 7th day of November, 2017, by and between Nextel Communications of the Mid-Atlantic, Inc. d/b/a Nextel Communications, Inc. (the "Contractor"), with a principal place of business at 12502 Sunrise Valley Drive, Reston, VA 20196, acting by the duly authorized undersigned representative, and the State of Connecticut, Department of Administrative Services (the "State"), with a principal place of business at 450 Columbus Boulevard, Hartford, Connecticut, acting by Mark Raymond, its Chief Information Officer, duly authorized, in accordance with Sections 4a-2(2), 4a-51, 4a-57 and 4a-59 of the Connecticut General Statutes.

WHEREAS, the State and the Contractor entered into an agreement dated November 7, 2003, identified as Contract # B-04-002 for TELECOMMUNICATION NETWORK SERVICES (WIRELESS SERVICES) (the "Contract") as amended on October 27, 2016 (the "Agreement"); and

WHEREAS the State and the Contractor desire to amend the Agreement.

Now therefore, in consideration of these premises and mutual covenants and agreements, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Contractor and the State agree as follows:

In accordance with Section 1 of the First Amendment Agreement, this Amendment is to extend this Agreement for one (1) year through November 6, 2018.

All other terms and conditions not otherwise affected by this Amendment shall remain in full force and effect.

The parties are executing this Amendment on the date below their respective signatures.

NEXTEL COMMUNICATIONS OF THE MID-ATLANTIC, INC

By: 

Name: Michaela Clairmonte
Print or Type Name

Title: Manager, Contract Negotiations

Date: 11/10/2017

Sprint Ref. #BSG1711-0036

Sprint Approved as to Legal Form – TFD 11/09/17

STATE OF CONNECTICUT

Department of Administrative Services

By: 

Name: Mark D. Raymond
Print or Type Name

Title: Chief Information Officer

Date: 11/8/2017



FIRST AMENDMENT AGREEMENT
TO
CONTRACT # B-04-002 BETWEEN
THE STATE OF CONNECTICUT
AND
NEXTEL COMMUNICATIONS OF MID-ATLANTIC, INC.
FOR
TELECOMMUNICATION NETWORK SERVICES

This First Amendment Agreement (the "Amendment") is made as of the 27th day of October, 2016, by and between Nextel Communications of the Mid-Atlantic, Inc. d/b/a Nextel Communications, Inc. (the "Contractor"), with a principal place of business at 12502 Sunrise Valley Drive, Reston, VA 20196, acting by the duly authorized undersigned representative, and the State of Connecticut, Department of Administrative Services (the "State"), with a principal place of business at 165 Capitol Ave, Hartford, Connecticut, acting by Mark Raymond, its Chief Information Officer, duly authorized, in accordance with Sections 4a-2(2), 4a-51, 4a-57 and 4a-59 of the Connecticut General Statutes.

WHEREAS, the State and Contractor entered into an agreement dated November 7, 2003, identified as Contract # B-04-002 for TELECOMMUNICATION NETWORK SERVICES (WIRELESS SERVICES) (the "Contract"); and

WHEREAS the State and the Contractor desire to amend the Agreement.

Now therefore, in consideration of these premises and mutual covenants and agreements, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Contractor and the State agree as follows:

1. Section 2 of the Contract is hereby deleted and replaced with the following:

2. Term.

This Agreement shall become effective upon its approval as to form by the Attorney General of the State of Connecticut and continue through November 6, 2017. The Agreement may be extended for one (1) additional one-year and shall be exercised by the mutual written agreement of the parties.

2. Section 13 of the Contract is hereby deleted and replaced with the following:

13. Non-discrimination.

- (a) For purposes of this Section, the following terms are defined as follows:

- (1) "Commission" means the Commission on Human Rights and Opportunities;
- (2) "Contract" and "contract" include any extension or modification of the Contract or contract;
- (3) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
- (4) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.

- (5) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- (6) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
- (7) "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced;
- (8) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
- (9) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
- (10) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

- (b)(1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the

Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- (g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.
- (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall

be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

4. Section 14 of the Contract is hereby deleted and replaced with the following:

14. RESERVED

5. Section 15 of the Contract is hereby deleted and replaced with the following:

15. Executive Orders:

This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 15, 1971, concerning labor employment practices, Executive Order No. Seventeen of Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. The Contract may also be subject to Executive Order No. 14 of Governor M. Jodi Reil, promulgated April 17, 2006, concerning Procurement of cleaning products and services and to Executive Order 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions of certain candidates for office. If Executive Order 14 and/or Executive Order 49 are applicable, they are deemed to be incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Client Agency or DAS shall provide a copy of these orders to the Contractor.

6. Section 16 of the Contract is hereby deleted and replaced with the following:

16. RESERVED

7. Section 17 of the Contract is hereby deleted and replaced with the following:

17. Audit and Inspection of Plants, Places of Business and Records:

- (a) The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.
- (b) The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
- (c) The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.
- (d) All audits and inspections shall be at the State's expense.

The parties are executing this Amendment on the date below their respective signatures.

NEXTEL COMMUNICATIONS OF THE MID-ATLANTIC, INC.
Sprint Reference No. BSG1610-0364

By: 

Name: Michaela Clairmonte
Print or Type Name

Title: MGR - Contract Negotiations & Management

Date: 11/4/2016

Approved by
Public Sector Legal
as to legal form

TFD 11/4/16



STATE OF CONNECTICUT

Department of Administrative Services

By: 

Name: Mark P. Pagnano
Print or Type Name

Title: Chief Information Officer

Date: 11/3/16

STATE OF CONNECTICUT

APPROVED AS TO FORM:

OFFICE OF THE ATTORNEY GENERAL

BY: 

JOSEPH RUBIN

ITS ASSOCIATE ATTORNEY GENERAL

DATE: 11/8/16

**SERVICE AGREEMENT
BETWEEN
STATE OF CONNECTICUT
AND
NEXTEL COMMUNICATIONS OF THE MID-ATLANTIC, INC.**

Reference No. B-04-002

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This Agreement entered into in East Hartford, Connecticut, hereinafter referred to as the "Agreement" or "contract," is made by and between the **State of Connecticut**, acting by its Department of Information Technology, Contracts and Purchasing Division, hereinafter referred to as the "State" or "Customer," located at 101 East River Drive, East Hartford, CT 06108, and **Nextel Communications of the Mid-Atlantic, Inc., d/b/a Nextel Communications**, hereinafter referred to as the "Supplier," "Nextel" or "contractor" or "Provider," having its principal place of business at 4340 East West Highway, Suite 800, Bethesda, MD 20814. The State and Provider are sometimes referred to as a "Party" and collectively as the "Parties."

The Parties hereto do hereby agree as follows:

1. Payment and Installation.

(a) Any applicable nonrecurring charges specified in this Agreement are due in arrears. Monthly or quarterly service fees, together with applicable taxes or charges (which will be stated separately on the invoice), are due in accordance with State statutes. Failure to make payment within forty-five (45) days after which services have been rendered and an undisputed documented invoice provided, shall not constitute a default or breach, but rather, shall entitle Provider to receive interest on the amount outstanding after said forty-five (45) days in accordance with the State of Connecticut statutes. This Agreement shall become effective upon its approval as to form by the Office of the Attorney General of the State of Connecticut. Installation of services shall commence on a mutually agreeable service commencement date. The term and billing for such services shall commence on the installation date.

(b) Purchase Orders shall describe the wireless telecommunications services (the "Services") to be purchased; the identity of the telecommunications equipment and accessories (together the "Equipment") being purchased; the quantity to be purchased; the delivery destinations; the requested delivery dates and any other information required by this Agreement. Contractor shall accept all Purchase Orders consistent with the terms of this Agreement that are submitted in accordance with this Section.

(c) The terms and conditions of this Agreement relating to the purchase of Services and Equipment shall be deemed incorporated into and made a part of each Purchase Order. Any terms and conditions appearing in any Purchase Order or in any acknowledgment or acceptance of a Purchase Order that are inconsistent with, or in addition to (except as such additional terms are required by law) the terms and conditions of this Agreement shall be void and of no effect.

(d) Descriptions and rate plans for Service(s) as of the Effective Date are as set forth in the Rate Plan Exhibit attached hereto. Descriptions and rate plans for Service(s) as of the Effective Date are as set forth in the Rate Plan Exhibit attached hereto. State agrees that (i) chargeable time for telephone calls originated by a unit begins when a connection is established with Contractor facilities; (ii) chargeable time for telephone calls to a State phone begin when State responds to the call; and (iii) a new Nextel Direct Connect call is initiated by a call participant if that participant responds more than six (6) seconds after the other party finishes its Nextel Direct Connect transmission. Contractor shall issue invoices for equipment purchased by and Service(s) provided to State, with monthly access charges invoiced in advance, and airtime and long distance

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charges invoiced in arrears.

(e) State must pay all federal, state, and local taxes, fees, surcharges, and other assessments (collectively, "Charges") that are imposed on transactions subject to this Agreement. State will be responsible for such charges regardless of whether the Charge is: (a) imposed upon the sale of telecommunications services, other services, equipment, and/or other products; (b) measured by gross receipts from sales made by Contractor to State; (c) imposed upon State or upon the Contractor; (d) imposed as a per-line or per-unit Charge. Such Charges include, but are not limited to excise taxes; sales and transaction taxes; gross receipts taxes; utility taxes; universal service assessments; telephone relay service (TRS) assessments; and other regulatory fees and assessments. State shall not be responsible for taxes imposed on Contractor's net income. If State claims an exemption from any such Charges, State must provide Contractor with valid and properly executed documentation of such exemption before such exemption shall become effective.

2. Term.

This Agreement shall become effective upon its approval as to form by the Attorney General of the State of Connecticut and continue for three years from that date. At the expiration of the initial three (3) year term of this Agreement there shall be two (2) single one-year optional extensions. Such optional extensions shall be exercised by the mutual written agreement of the parties.

3. Acquiring Services.

a. Subject to the terms and conditions of this Agreement, Provider shall provide to the Customer any service that Provider offers in the then current Product Schedule, approved by the Contracts & Purchasing Division. The specific features and characteristics of each Service can be found in the supporting documentation for each Service.

b. Provider may supplement the Product Schedule at any time to make additional Services available to the Customer, provided that the effective date of each supplement is stated thereon. No material change may be made to the available Services that alters the nature or scope of the Services or their intended use without prior written notification to the Customer. The addition of new or upgraded Services is permissible without new competitive purchasing or obtaining sole source approval. Any supplement must be transmitted to the Customer with a cover letter, documenting formal approval of the supplement by a Service representative then legally empowered to so act.

c. No material change may be made to the list of Products on the Product Schedule that alters the nature or scope of the Products or their intended use. Any change in the Products listed in the Product Schedule is conditioned upon the new products being of a similar nature and having a similar use as the defined Products. An update of the Products or the addition of Products that are related to or serve similar functions as the Products is permissible only with the prior written approval of the State.

d. Products ordered prior to the effective date of any Product Schedule pricing increase shall enjoy protection from rate increase during their initial terms.

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e. Upon receipt of written notice from the Customer, the Provider will add, delete or change locations or features of specific lines and equipment. The Provider shall charge the Customer a non-recurring charge for such service at a price mutually agreed to prior to the commencement of work.f. For special construction or other service arrangements not contemplated in this Agreement or in the applicable Product Schedules, the parties will provide special construction or other service arrangement pursuant to mutually agreeable terms and conditions at the time requested.

4. Rates.

Provider agrees to provide the Services at rates not exceeding the rates set forth in this Agreement. Upon Customer receipt of sixty (60) days' prior written notice, Provider may increase such rates effective July 1 of any Customer fiscal year provided such rate increase is limited to the lesser of five percent (5%) or a change in the Consumer Price Index. Upon any such price increase, Customer may elect to terminate this Agreement, and be relieved of all obligations therefor, upon thirty (30) days written notice to Provider.

Payment will be made only after presentation of a properly documented undisputed invoice. All invoices shall be sent directly to the Customer. All inquiries regarding the status of unpaid invoices shall also be directed to the Customer. In cases where there is a good faith dispute concerning the Provider's claim for payment, the State agency shall contact the Provider prior to payment due date. Where there is a good faith dispute concerning Provider's claim for payment, payment in whole or in part may be withheld. If the Provider corrects the defect or impropriety within five (5) business days of being so contacted, Provider shall be entitled to payment.

All charges against the Provider, including credits, shall be deducted from current obligations that are due or may become due. In the event that collection is not made in this manner, the Contractor shall pay the State, on demand, the amount of such charges.

5. Reports To The Auditors Of Public Accounts.

This contract is subject to the provisions of §4-61dd Connecticut General Statutes. In accordance with this section any person having knowledge of any matter involving corruption, violation of state or federal laws or regulations, gross waste of funds, abuse of authority or danger to the public safety occurring in any large state contract, may transmit all facts and information in his possession concerning such matter to the Auditors of Public Accounts. In accordance with subsection (e) if an officer, employee or appointing authority of a large state contractor takes or threatens to take any personnel action against any employee of the contractor in retaliation for such employee's disclosure of information to the Auditors of Public Accounts or the Attorney General under the provisions of this section, the contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty percent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The executive head of the state or quasi- public agency may re-

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quest the Attorney General to bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) each large state contractor shall post a notice of the provisions of this section relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the contractor.

6. Provision of Equipment Space, Conduit, Electrical Power and POTS line.

Customer shall timely provide the necessary equipment space, conduit, electrical power and environmental conditions required to terminate and maintain the facilities used to provide Services on all applicable premises without charge or cost to Provider, and assure Provider a safe place to work. Customer shall also make available to Provider for diagnostic purposes a local exchange carrier dedicated inbound telephone line. The Customer will establish the procedure for use of the telephone line.

7. Equipment.

All right, title and interest in all the equipment provided by Provider, unless paid for by Customer, shall at all times remain exclusively with Provider. Customer shall not create any liens or encumbrances with respect to such equipment. Upon termination of Services, Provider shall remove, or request Customer to return at Provider's expense, Provider's equipment.

8. Governmental Authorizations.

Provider shall use reasonable efforts to obtain and keep in effect all necessary governmental authorizations necessary to provide the Services, and Provider shall take all such actions, at no cost to Customer, as may reasonably be required to maintain the Services in conformity with governmental requirements.

9. Default And Remedies.

In the event either Party fails to comply with any material provision of this Contract, then the other Party may terminate the Contract upon notice to the non-complying Party after giving the non-complying Party at least thirty (30) days prior written notice of the non-compliance and an opportunity to cure, if the non-compliance remains uncured after such period.

Notwithstanding anything to the contrary contained in this Contract, neither Party shall be liable for delay, loss or damage or be deemed in breach of this Contract due to either Party's failure of performance, wholly or in part, under this Contract if such failure or delay of performance is due to causes beyond either Party's reasonable control or beyond the reasonable control of its sub-contractors or agents ("force majeure"), including but not limited to acts of God, fire, flood, explosion, vandalism, storm or other similar occurrences; any law, order, regulation or request of the United States government or of any government having jurisdiction or of any agency, commission, court or other instrumentality of any one or more of such governments; national emergencies; cable cuts; riots; malicious or criminal acts of third parties, wars, strikes, lockouts, work stoppages or other such labor difficulties; or acts of third parties beyond the reasonable control

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of either Party. Any delay resulting therefrom shall extend performance accordingly or excuse performance by either Party in whole or in part, as may be reasonable.

10. Language Required Pursuant To CGS 4d-44.

The provisions of Section 4d-44 of the Connecticut General Statutes concerning continuity of systems in the event of expiration or termination of contracts, amendments or default of the contractor are incorporated herein by reference.

Sec. 4d-44. Each contract, subcontract or amendment to a contract or subcontract shall include provisions ensuring continuity of state agency information system and telecommunication system facilities, equipment and services, in the event that work under such contract, subcontract or amendment is transferred back to the state or transferred to a different contractor, upon the expiration or termination of the contract, subcontract or amendment or upon the default of the contractor or subcontractor. Such provisions shall include, but not be limited to, (1) procedures for the orderly transfer to the state of (A) such facilities and equipment, (B) all software created or modified pursuant to the contract, subcontract or amendment, and (C) all public records, as defined in section 4d-33, which the contractor or subcontractor possesses or creates pursuant to such contract, subcontract or amendment, and (2) procedures for granting former state employees who were hired by such contractor or subcontractor the opportunity for reemployment with the state.

11. Limitations Of Liability.

11.1 EITHER PARTY'S ENTIRE LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDIES, FOR ANY DAMAGES CAUSED BY ANY SERVICE DEFECT OR FAILURE, OR FOR OTHER CLAIMS ARISING IN CONNECTION WITH ANY SERVICE OR PERFORMANCE OR NON-PERFORMANCE OF OBLIGATIONS UNDER THIS AGREEMENT SHALL BE:

- (i) FOR BODILY INJURY OR DEATH TO ANY PERSON, OR REAL OR TANGIBLE PROPERTY DAMAGE, NEGLIGENCELY CAUSED BY PROVIDER, OR DAMAGES ARISING FROM THE WILLFUL MISCONDUCT OF PROVIDER, THE CUSTOMER'S RIGHT TO PROVEN DIRECT DAMAGES, EXCEPT AS RELATING TO SERVICE DISRUPTIONS;
- (ii) THE PROVIDER'S LIABILITY FOR SERVICE DISRUPTION, WHETHER CAUSED BY THE NEGLIGENCE OF THE PROVIDER OR OTHERWISE, IS LIMITED TO A CREDIT ALLOWANCE NOT EXCEEDING AN AMOUNT EQUAL TO THE PROPORTIONATE CHARGE TO THE STATE FOR THE PERIOD OF SERVICE DISRUPTION. EXCEPT AS OTHERWISE SET FORTH IN THE PRECEDING SENTENCE, IN NO EVENT IS PROVIDER LIABLE FOR ACTUAL, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR OTHER INDIRECT DAMAGES CAUSED BY ITS NEGLIGENCE OR OTHERWISE, NOR FOR ECONOMIC LOSS, PERSONAL INJURIES OR PROPERTY DAMAGES SUSTAINED BY THE STATE

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OR ANY THIRD PARTIES ARISING FROM OR RELATING TO SERVICE
DISRUPTION.

- (iii) FOR PHYSICAL ACTS OR DAMAGES NOT RELATED TO THOSE SET FORTH IN (i) AND (ii) ABOVE AND NOT OTHERWISE EXCLUDED UNDER THIS AGREEMENT, EACH PARTY'S LIABILITY SHALL BE LIMITED TO PROVEN DIRECT DAMAGES NOT TO EXCEED PER CLAIM (OR IN THE AGGREGATE DURING ANY TWELVE (12) MONTH PERIOD) THE GREATER OF AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS PAYABLE BY CUSTOMER FOR THE NETWORK SERVICE DURING THE TWELVE (12) MONTHS PRECEDING THE MONTH IN WHICH THE DAMAGE OCCURRED OR \$250,000. THIS SECTION SHALL NOT LIMIT CUSTOMER'S RESPONSIBILITY FOR THE PAYMENT OF ANY AND ALL PROPERLY DUE CHARGES UNDER THIS AGREEMENT.

11.2 NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OF ANY KIND OR INCREASED COST OF OPERATIONS, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.3 PROVIDER ALSO SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: INTEROPERABILITY, INTERACTION OR INTERCONNECTION PROBLEMS WITH APPLICATIONS, EQUIPMENT, SERVICES OR NETWORKS PROVIDED BY CUSTOMER OR THIRD PARTIES; SERVICE INTERRUPTIONS OR LOST OR ALTERED MESSAGES OR TRANSMISSIONS, EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT; THE USE OF NEXTEL ONLINE SERVICES, INCLUDING BUT NOT LIMITED TO THE ACCURACY OR UTILITY OF ANY INFORMATION ACQUIRED FROM THE INTERNET THROUGH NEXTEL ONLINE SERVICES; OR INTERNET SERVICES, CONTENT OR APPLICATIONS WHETHER OR NOT SUPPORTED BY PROVIDER; OR, UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF CUSTOMER'S, USERS' OR THIRD PARTIES' APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORK OR SYSTEMS.

11.4 Customer shall be responsible to Provider as set forth in this Agreement for transmissions of content or use of the Services in violation of law and/or this Agreement. For the purposes of this Agreement only, any use or access of the Services provided pursuant to this Agreement shall be deemed to be use or access by Customer, except for use or access by any unauthorized party who, in violation of law, uses or accesses the Services without the consent or permission of Customer, either express or implied, after the Customer has taken all commercially reasonable documented safeguards to prevent such unauthorized use or access; provided that, as soon as Customer becomes aware of such unauthorized use or access, Customer immediately implements security measures to prevent such unauthorized use or access and provides notice and appropriate documentation of same to Provider. Provider shall be solely responsible to Customer for the Services. Nothing in this Agreement shall be construed as a requirement for the Customer to indemnify or hold the Provider harmless.

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12. Miscellaneous.

Neither Party may assign this Agreement or any rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, except that Nextel may assign this Agreement to any parent, subsidiary or affiliate of Nextel upon written notification to Customer. Subject to the restrictions contained herein, this Agreement shall bind and inure to the benefit of the successors and assigns of the parties hereto.

13. Nondiscrimination And Affirmative Action Provisions.

Provider agrees to comply with Subsection (a) of Section 4a-60 of the General Statutes of Connecticut, as revised.

a. For the purposes of this section, "minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) Who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in Subsection (a) of Conn. Gen. Stat. Section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

For the purposes of this section, "commission" means the commission on human rights and opportunities.

For the purposes of this section, "public works contract" means any agreement between any individual, firm or corporation and the state or any political subdivision of the state other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the state, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

b. (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all

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solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and Conn. Gen. Stat. Sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to Conn. Gen. Stat. Sections 46a-56, 46a-68e and 46a-68f; (5) the contractor agrees to provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and Conn. Gen. Stat. Section 46a-56. If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

c. Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

d. The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.

e. The contractor shall include the provisions of Subsection b of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. Section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

f. The contractor agrees to comply with the regulations referred to in this section as they exist on the date of this contract and as they may be adopted or amended from time to time during the term of this contract and any amendments thereto.

14. Nondiscrimination Provisions Regarding Sexual Orientation.

Provider agrees to comply with Subsection (a) Section 4a-60a of the General Statutes of Connecticut, as revised.

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a. (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission on human rights and opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56 of the general statutes; (4) the contractor agrees to provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56 of the general statutes.

b. The contractor shall include the provisions of Subsection a of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56 of the general statutes; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

c. The contractor agrees to comply with the regulations referred to in this section as they exist on the date of this contract and as they may be adopted or amended from time to time during the term of this contract and any amendments thereto.

15. Executive Order No. Three.

This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 and, as such, this contract may be cancelled, terminated or suspended by the state labor commissioner for violation of or noncompliance with said Executive Order No. Three, or any state or federal law concerning nondiscrimination, notwithstanding that the labor commissioner is not a party to this contract. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the state labor commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination, until the contract is completed or terminated prior to completion.

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The contractor agrees, as part consideration hereof, that this contract is subject to the Guidelines and Rules issued by the state labor commissioner to implement Executive Order No. Three, and that he will not discriminate in his employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the state labor commissioner.

16. Executive Order No. Sixteen.

This Agreement is subject to the provisions of Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, and, as such, this Agreement may be canceled, terminated or suspended by the Contracting agency for violation of or noncompliance with said Executive Order No. Sixteen. The parties to this Agreement, as part of the consideration hereof, agree that Executive Order No. Sixteen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting State shall have jurisdiction in providing its employees a reasonably safe and healthy working environment, free from intimidation, harassment, threats, and/or violent acts.

17. Executive Order No. Seventeen.

This contract is subject to the provisions of Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this contract may be cancelled, terminated or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen, notwithstanding that the Labor Commissioner may not be a party to this contract. The parties to this contract, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

18. Workers' Compensation.

Supplier agrees to carry sufficient workers' compensation and liability insurance in a company, or companies, licensed to do business in Connecticut, and furnish certificates if required.

19. Approval Of Agreement.

Customer and Supplier represent that the persons who are their respective signatories to this Agreement are fully authorized to do so. This Agreement shall become effective upon its approval as to form by the Office of the Attorney General of the State of Connecticut.

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20. Applicable Law. Jurisdiction.

a. This contract shall be governed, interpreted and construed under and in accordance with the laws of the State of Connecticut without regard to its conflict of laws principles. This contract shall be deemed to have been made in Hartford, Connecticut.

b. The Provider irrevocably consents with respect to any permitted claims or remedies at law or equity, arising out of or in connection with this Contract, to the jurisdiction of the Connecticut Superior Court or the U.S. District Court for the District of Connecticut and with respect to venue in the Judicial District of Hartford-New Britain at Hartford or the U.S. District Court for the District of Connecticut in Hartford, and irrevocably waives any objections it may have to such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such court or on the basis of forum non conveniens or otherwise.

c. Provider agrees to appoint agents in the State to receive service of process. In the event Provider fails to appoint said agent the Secretary of the State of Connecticut is hereby appointed by Provider as its agent for service of process for any action arising out or as a result of this contract, such appointment to be in effect throughout the life of this contract including any supplements hereto and all renewals thereof, if any, and six (6) years thereafter except as otherwise provided by law.

21. Language Required Pursuant To C.G.S. 1-200 And 1-218.

Each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (1) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (2) indicate that such records and files are subject to the Freedom of Information Act and may be disclosed by the public agency pursuant to the Freedom of Information Act. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with the Freedom of Information Act. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the general statutes

22. No Resale.

Customer is not permitted to resell the Services.

23. Order Of Precedence:

1. This Agreement and any Amendments.
2. Nextel's Clarifications dated Sept. 10, 2003.
3. RFP #990-A-24-7015.
4. Nextel's Best and Final Offer dated November 20, 2002
5. Nextel's original proposal dated February 14, 2001.

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24. Use Of Service.

- (a) State will not use the Service for any unlawful purpose. State will not use the Service in aircraft or motor vehicles in violation of any applicable laws, regulations or local ordinances.
- (b) Nextel Wireless Web Services, consisting of certain applications such as email, data, information and other wireless Internet services (the "Applications") are part of the Services that can be obtained through Contractor. Certain Applications offered by Contractor or authorized third parties may be compatible with the equipment and/or the Service offered by Contractor. State agrees that there is no guarantee or assurance that the Applications are compatible, or will continue to be compatible, with Contractor's System or any of its Equipment or Service offerings. Such compatibility or approval from Contractor of compatibility shall not be construed as an endorsement of a particular Application or a commitment on the part of Contractor that Application(s) will continue to be compatible with the System, Equipment or Service for any period of time. Use of Nextel Wireless Web Services requires a wireless Internet compatible phone, and is subject to any storage, memory or other equipment limitation. Only certain Internet sites may be accessed, and certain Nextel Wireless Web Services may not be available in all Contractor Service areas.
- (c) State agrees that in most cases, the developer of an Application is responsible for providing State with care and Application support. In the event State contacts Contractor for care with a problem concerning the use of an Application, State may be referred to the Application developers.
- (d) Contractor is not a publisher of third party content that State may from time to time access through Nextel Wireless Web Services; therefore Contractor is not responsible for the content provided by such third parties, including but not limited to statements, opinions, graphics, photos, music, services and other information ("Content"), and accessed by State through Nextel Wireless Web Services. Contractor gives no guarantee or assurance as to the currency, accuracy, completeness or utility of Content obtained through Nextel Wireless Web Services. Contractor, Content providers and others have proprietary interests in certain Content. State shall not, nor permit others to, reproduce, broadcast, distribute, sell, publish, commercially exploit or otherwise disseminate such Content in any manner without the prior written consent of Contractor, Content providers, or others with proprietary interests in such Content, as applicable.
- (e) Contractor reserves the right to interrupt Services if State's account (i) appears to have excessive charges; or (ii) shows any unusual calling patterns. The Contractor will attempt to contact State before any such interruption. Such interruption may be done to protect State or the Contractor as the Contractor determines in its sole discretion.
- (f) Local dispatch (Direct Connect), cellular calling, Nextel Wireless Web Services and respective coverage areas for these Services are subject to change at any time.

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25. Notice Regarding Use Of Service For 911 Or Other Emergency Calls

(a) The Service provided hereunder does not interact with 911 and other emergency services in the same manner as landline telephone service. Depending on the caller's location and the circumstances of a particular call, the Service provided hereunder may not be able to identify State's telephone number or location to emergency services, and State may not always be connected to the appropriate emergency services provider. Nextel is actively deploying Enhanced 911 ("E911") service to help public safety authorities locate Nextel subscribers who make 911 calls. However, wireless E911 is not available in all areas, and even in those areas where it is implemented, inherent limitations in this advanced wireless technology prevent it from being 100% reliable. Accordingly, Nextel agrees to provide State with E911 service, where available, and State acknowledges that such service is not yet completely available or reliable.

(b) State hereby consents to Contractor's disclosure of State information (e.g., State name, address, telephone number, and location) to governmental and quasi-governmental institutions (e.g., emergency service providers and law enforcement agencies), where Contractor deems it necessary to respond to an exigent circumstance.

26. Notices.

Any notice required or permitted to be given under this Agreement shall be deemed properly given if reduced to writing and personally delivered or transmitted by courier, registered or certified mail, return receipt requested, to the addresses shown below, or by facsimile with correct answerback, and shall be effective upon receipt or at such time as delivery is refused by addressee upon presentation.

State:

Dept. of Information Technology
Contracts and Purchasing Division
101 East River Drive
East Hartford, CT 06108

Nextel:

4340 East West Highway
Suite 800
Bethesda, MD 20814

With a copy to:

Vice President &
Assistant General Counsel – Public Sector
Nextel Communications, Inc.
2001 Edmund Halley Drive
Fifth Floor
Reston, VA 20191

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27. Entirety Of Agreement.

This Agreement includes the SIGNATURE PAGE OF AGREEMENT. To the extent the requirements of the issued RFP #990-A-24-7015, the Provider's response thereto dated February 14, 2001, do not contradict the provisions of Sections 1 through 26 of this Agreement, said documents are incorporated herein by reference and made a part hereof as though fully set forth herein and constitute the entire Agreement of the parties which shall be governed and construed in accordance with the laws of the State of Connecticut. This Agreement, as thus constituted, contains the complete and exclusive statement of the terms and conditions agreed to by the parties hereto and shall not be altered, amended, or modified except in writing executed by an authorized representative of each Party. Should any provision of this Agreement be illegal or in contravention of the law, such provision shall be considered null and void but the remainder of this Agreement shall not be affected thereby.

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SIGNATURE PAGE OF AGREEMENT

This Agreement is entered into by authority of Sections 4d-2, 4d-5 and 4d-8 of the General Statutes.

Nextel Communications of the Mid-Atlantic, Inc.
d/b/a Nextel Communications

STATE OF CONNECTICUT

BY:

H. Leon Frazier

NAME: H. Leon Frazier

TITLE: Vice President

DATE: 10/15/03

BY:

Gregg P. Regan

GREGG P. REGAN
Chief Information Officer
Dept of Information Technology
duly authorized

DATE: 10/22/03

SEAL

APPROVED AS TO FORM:

William B. Rulli
Attorney General of the
State of Connecticut

DATE: 11/7/03