



Commonwealth of Virginia
Department of Information Technology

DESKTOP FAXING AND FAX BROADCASTING SERVICES
Optional Use

Date: July 11, 2011

Contract #: VA-090811-MSGV

Authorized User: All Public Bodies as defined by §2.2-4301 and referenced by §2.2-4304 of the **Code of Virginia**

Contractor: MessageVision, Inc.
14471 Chambers Road
Suite 105
Tustin, CA 92780

Contacts: **New Departments or Users:**
Glenn Rouse
Phone: 877-362-6246 x8738
Email: grouse@messagevision.com

Support Issues: clientcare@messagevision.com

Accounting Requests: Stephanie Chase
Email: schase@messagevision.com

FIN: 20-1844506

Term: August 11, 2011 – August 10, 2012

Payment: Net 30 days

For Additional Information, Please Contact:

Contract Information:
John Tackley
Strategic Sourcing Specialist
Phone: 804-416-6165
E-Mail: john.tackley@vita.virginia.gov
Fax: 804-416-6361

NOTES: Individual Commonwealth of Virginia employees are not authorized to purchase equipment or services for their personal use from this Contract.

For updates, please visit our Website at <http://www.vita.virginia.gov/procurement/contracts.cfm>

VIRGINIA INFORMATION TECHNOLOGIES AGENCY (VITA): Prior review and approval by VITA for purchases in excess of \$100,000.00 is required for State Agencies and Institutions only.



COMMONWEALTH *of* VIRGINIA

Sam A. Nixon, Jr.
Chief Information Officer
Email: cio@vita.virginia.gov

VIRGINIA INFORMATION TECHNOLOGIES AGENCY
11751 Meadowville Lane
Chester, VA 23836
(804) 416-6100

TDD VOICE -TEL. NO.
711

July 11, 2011

VIA EMAIL

TO: MessageVision

RE: VA-090811-MSGV

In accordance with Section 3 of the above referenced contract, entitled "Term and Termination," please consider this correspondence your notification of the Commonwealth's extension of the above referenced contract.

The expiration of the agreement is now extended to August 10, 2012.

Regards,

 Virginia Information Technologies Agency
John Tackley
On behalf of the
Commonwealth of Virginia
Chester, VA 23836
2011.07.11 09:29:06 -04'00'

John Tackley
Supply Chain Management

c: contract file



COMMONWEALTH of VIRGINIA

Virginia Information Technologies Agency

Samuel A. Nixon, Jr.
Chief Information Officer
E-mail: cio@vita.virginia.gov

11751 Meadowville Lane
Chester, Virginia 23836-6315
(804) 416-6100

TDD VOICE -TEL. NO.
711

July 27, 2010

TO: MessageVision, Inc.
RE: VA-090811-MSGV

In accordance with Section 3.A. (Term and Termination) of the above-referenced contract, please consider this correspondence notification of the Commonwealth's extension of the contract. The expiration of the agreement is now extended to August 10, 2011.

Regards,
Doug Crenshaw
Strategic Sourcing Manager
Virginia Information Technologies Agency



COMMONWEALTH of VIRGINIA

VIRGINIA INFORMATION TECHNOLOGIES AGENCY
SUPPLY CHAIN MANAGEMENT
MEADOWVILLE TECHNOLOGY PARK
11751 MEADOWVILLE LANE
CHESTER, VIRGINIA 23836

CONTRACT VA-090811-MSGV

DESKTOP FAXING AND FAX BROADCAST SERVICES

SUPPLIER

COMPANY NAME: MessageVision, Inc.

SALES CONTACT: Glenn Rouse

ADDRESS: 1401 N. Tustin Ave

TITLE: Senior Account Executive

PHONE NO: 877-365-6246 Ext 8738

CITY/STATE/ZIP: Santa Ana, CA 92705

FAX: 800-408-1685

FEIN: 33-0668917

E-MAIL ADDRESS: grouse@messagevision.com

WEBSITE URL: www.messagevision.com

VITA TERM CONTRACT for Telecommunications Service

Services:	Desktop Faxing and Fax Broadcast
Authorized Contract Users:	Commonwealth of Virginia Agencies, Institutions and Other Public Bodies
Contract Term:	One (1) year initial period with three (3) one (1) year renewals
Pricing:	See Exhibit "A"
Requirements:	See Exhibit "B"
Additional Discounts:	None
Orders:	<u>Standard Order Process</u> : for Services in "Exhibit A", via Telecommunications Service Order (TSO). See Exhibit "B" – Telecommunications Service Order Template.

VITA SCM Contacts: Contract Information
 Stuart L. Thacker
 Voice: (804) 416-6163
 Fax: (804) 416-6361
 E-mail Address stuart.thacker@vita.virginia.gov

This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, §2.2-4343.1 or against any Bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

EXHIBIT A - PRICING

Item No.	DESCRIPTION	QTY	UNIT	PRICE
	The Virginia Information Technologies Agency (VITA) desires to establish a firm fixed price term contract to purchase desktop faxing and fax broadcast services			
	Desktop Fax Service (email)			
1.	Usage Fee (per page)	1	ea	\$.055
	Fax Broadcast Service (web)			
2.	Usage Fee (per page)	1	ea	\$.055
	Total Evaluated Price:			
	One-time Setup Fee for email service \$ <u> N/C </u>			N/C
	Email Service User Fee per User per Month \$ <u>8.95</u> (included # of pages <u>200</u> Send/ <u>100</u> Receive)			\$8.95
	Note to Bidders: Indicate a price for all items. If the item is at no cost, state so by providing "N/C" or "N/A" in the appropriate blank.			

Outbound faxes will be stored with MessageVision for a period of 1-year. At that time we will determine what kind of hard media transfer will be needed and affiliated costs.

EXHIBIT B - SERVICE REQUIREMENTS

1. SERVICE REQUIREMENT

Supplier shall provide a service whereby faxes may be sent and received via email without the need of additional software. Faxes may also be sent in a broadcast mode without the need of a fax machine or additional software using an Internet website.

2. CURRENT USERS

Desktop email – 5

Fax Broadcast via Internet website – 41

3. FEATURES (REQUIRED)

a. Desktop email:

- Send a fax from an email account to a traditional fax machine
- Send a fax to more than one phone number or email address at a time
- Send a delivery confirmation to an email account
- Send a delivery confirmation to a cell phone or pager
- Schedule transmission of faxes
- Automatic retry of transmissions
- Delivery confirmations emailed to account holder
- Receive a set number of free inbound faxes a month before being charged
- Receive a fax from a fax machine to an email account
- Receive a fax and forward to other email accounts or fax numbers
- Local or toll-free telephone number assignment
- Manage all fax contacts in a supplier's central location

b. Fax Broadcast:

- Manage all fax contacts in a supplier's central location
- Send faxes via the faxing service website
- Schedule transmission of faxes
- Automatic Retry of transmissions
- Store faxes on the fax service

4. CUSTOMER SUPPORT

Customer support 24 hours per day, 7 days a week. Toll-free number should be provided here: **800-866-0883**.

5. SUPPLIER SERVICE INSTALLATION INTERVAL

Supplier to provide service installation interval here: **24 hours**.

6. ORDERING:

Services will be ordered with a Telecommunications Service Order (template attached) issued by one of the VITA Ordering Officers listed in Exhibit D of this contract.

7. BILLING ADDRESS:

Virginia Information Technologies Agencies

Attn: Accounts Payable

11751 Meadowville Lane

Chester, VA 23836

TELECOMMUNICATIONS SERVICE ORDER TEMPLATE

TELECOMMUNICATIONS SERVICE ORDER

01 FEB 27 AM 8:20

* * * * *
* DIT ORDER NO : 102001-786-XYZ PROJECT:
* ACCOUNT NO. : NEWACCOUNT REQUESTED DUE DATE: 20010401
* DIT CONTACT : SUSAN STANLEY
* TELEPHONE : 804/344-5687
* COPY TO :

* DIT APPROVAL : _____ DATE: _____

ACTIVITY CODE: 0138073 AGENCY LOG NO:
AGENCY : INFORMATION TECHNOLOGY, DEPARTMENT
COORDINATOR : MARY SMITH
ADDRESS : 110 SOUTH 7TH STREET
CITY : RICHMOND
STATE: : VA ZIP: 23219
TELEPHONE : 804/344-5645

* VENDOR : XYZ TELEPHONE
* ADDRESS : 101 TELEPHONE LANE
* CITY : ANYTOWN
* STATE : VA ZIP: 23111

* REMARKS TO VENDOR:
* PLEASE PROVIDE US WITH ALL MONTHLY RECURRING CHARGES (RECAP OF BILL)
* ASSOCIATED WITH THIS ORDER.

* SERVICE REP: _____
* TELEPHONE : _____ DUE DATE: _____

* S.O. NOS : _____

* REMARKS FROM VENDOR:
* _____
* _____
* _____

* * * * *
SERVICE ORDER GENERAL DESCRIPTION: DESCRIPTION PAGE 1 OF 2

LOCATION CONTACT: ALFONIA RAY COORDINATOR
540/679-9999
4581 SAGEWOOD TRAIL DRIVE
ANYTOWN, VA 24316

----- XYZ TELEPHONE COMPANY -----

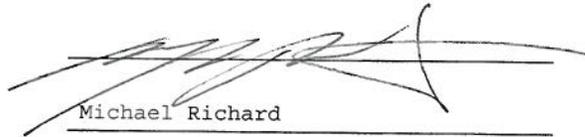
EXHIBIT C – CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- i). No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Contract, grant, loan, or cooperative agreement.
- ii). If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- iii). The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and Contracts under grants, loans and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature:



Printed Name:

Michael Richard

Organization:

MessageVision, Inc

Date:

7/22/09

EXHIBIT D – INDIVIDUALS AUTHORIZED TO ORDER SERVICES

The authorized Ordering Officers for this Contract are as follows:

Linda Brown

Margaret A. Moran

Carol Haygood

Pamela Wood-Henry

CONTRACTUAL TERMS AND CONDITIONS TELECOMMUNICATIONS SERVICES CONTRACT

THIS TELECOMMUNICATIONS SERVICES CONTRACT ("Contract") is entered into by and between the Virginia Information Technologies Agency (hereinafter referred to as "VITA"), pursuant to §2.2-2012 of the Code of Virginia and on behalf of the Commonwealth of Virginia, and Supplier to be effective as of the date in set forth on the signature page of this Contract ("Effective Date").

1. PURPOSE AND SCOPE

This Contract sets forth the terms and conditions under which Supplier shall provide desktop faxing and fax broadcast service to any public body as defined by §2.2-4301 and referenced by §2.2-4304 of the Code of Virginia.

2. DEFINITIONS

A. Acceptance

Acceptance shall take the form of successful performance of the Services at the designated location, or completed Acceptance testing in conformance with the requirements as determined by VITA. .

B. Confidential Information

Any confidential or proprietary information of a Party that is disclosed in any manner, including oral or written, graphic, machine readable or other tangible form, to any other Party in connection with or as a result of discussions related to this Contract or any order issued hereunder, and which at the time of disclosure either (i) is marked as being "Confidential" or "Proprietary", (ii) is otherwise reasonably identifiable as the confidential or proprietary information of the disclosing Party, or (iii) under the circumstances of disclosure should reasonably be considered as confidential or proprietary information of the disclosing Party.

C. Party

Supplier, VITA, or a Commonwealth public body which is a recipient of Supplier's Services.

D. Service

Any work performed or service provided by Supplier under this Contract for the benefit of VITA, , or another public body on whose behalf VITA has placed an order with Supplier.

E. Supplier

Any individual who is an employee, sub-contractor, or independent contractor of Supplier who is assigned by Supplier to perform Services under this Contract.

F. VITA

Virginia Information Technologies Agency, an agency of the Commonwealth of Virginia pursuant to Chapter 20.1 (§§2.2-2005 et seq.) of the Code of Virginia.

G. Warranty Period

All Services purchased under this Contract remain under warranty for the time period commencing after acceptance by VITA and continuing through expiration of the Contract or discontinuance of the Services at the discretion of VITA .

3. TERM AND TERMINATION

A. Contract Term

This Contract is effective and legally binding as of the Effective Date and, unless terminated as provided for in this section, shall continue to be effective and legally binding through the end of the initial term. VITA, at its sole option, may extend the term of this Contract for up to three (3) additional one (1) year periods after the expiration of the initial contract term. VITA will issue a written notification to the Supplier stating the extension period, not less than thirty (30) days prior to the expiration of any current term.

B. Termination for Convenience

VITA may terminate for convenience this Contract, in whole or in part, or any order issued hereunder, in whole or in part may terminate for convenience an order, in whole or in part, upon not less than thirty (30) days prior written notice at any time for any reason. VITA may also immediately terminate this Contract, in whole or in part, or any order issued hereunder, if Supplier becomes a party excluded from Federal Procurement and Nonprocurement Programs. VITA shall provide written notice to Supplier of such termination, and Supplier shall provide prompt written notice to VITA if federal debarment proceedings are instituted against Supplier. Supplier shall submit any contractual dispute to VITA or the terminating Authorized User for resolution according to the terms of the Dispute Resolution Section of this Contract.

Upon termination for convenience, neither the Commonwealth nor VITA nor any public body, to include any Authorized User, shall have any future liability except for (i) Services rendered by Supplier prior to the termination date of the Contract or order and (ii) costs associated with circuit or service de-installation for services installed prior to termination. The Commonwealth makes no assurances that any Service purchased under this Contract will remain in service for any minimum amount of time.

C. Termination for Breach or Default

VITA shall have the right to terminate this Contract, in whole or in part, or any order issued hereunder, in whole or in part may terminate an order, in whole or in part, for breach and/or default of Supplier ("Termination for Breach" or "Termination for Default"). Supplier shall be deemed in breach and/or default in the event that Supplier fails to meet any material obligation set forth in this Contract or in any order issued hereunder.

If VITA deems the Supplier to be in breach and/or default, VITA shall issue a "Show Cause Notice" identifying the failure and providing Supplier fifteen (15) days to cure the failure/nonperformance. If Supplier fails to answer the Show Cause Notice, or does not correct the deficiencies noted, VITA may immediately terminate this Contract, in whole or in part, or any order issued hereunder, in whole or in part, may immediately terminate its order, in whole or in part. Such termination shall be deemed a Termination for Breach or Termination for Default.

VITA may immediately terminate this Contract, in whole or in part, for breach and/or default if Supplier is found by a court of competent jurisdiction to be in violation of or to have violated 31 USC 1352, and VITA shall provide written notice to Supplier of such termination, and Supplier shall provide prompt written notice to VITA if Supplier is charged with violation of 31 USC 1352.

Upon Termination for Breach or Termination for Default, neither the Commonwealth, nor VITA, nor any public body, to include any Authorized User, shall have any future liability except for Services accepted prior to the termination date. Supplier shall refund any monies paid by VITA or any Authorized User for Services that were not accepted by VITA .

The failure of VITA to exercise its right to terminate for breach and/or default under this provision shall not be construed as a waiver of its right to terminate for breach and/or default, rescind or revoke this Contract or any order issued hereunder in the event of any subsequent breach and/or default on any provisions of such agreements.

Supplier shall submit any contractual dispute to VITA or the terminating Authorized User for resolution according to the terms of the Dispute Resolution Section.

The terms of the Termination for Convenience and Termination for Breach or Default Sections shall not apply to termination for non-appropriation of funds.

D. Transition of Services

Prior to or upon expiration or termination of this Contract, Supplier shall provide all assistance reasonably required to transition Services to any other supplier with whom VITA contracts for provision of services identical or similar to the Services provided by Supplier pursuant to this Contract. This obligation may extend beyond expiration or termination of the Contract. This obligation may extend beyond expiration or termination of the Contract for a period not to exceed six (6) months. In the event of a termination for breach and/or default of Supplier, Supplier shall provide such assistance at no charge or fee to VITA or any Authorized User; otherwise, Supplier

shall provide such assistance at a reasonable hourly rate or a charge agreed upon by Supplier and VITA .

4. SERVICES

A. Nature of Services and Engagement

Supplier is an independent contractor engaged to perform certain Services, including but not limited to installation and/or support activities for public bodies as described in Exhibit B and the Pricing Exhibit. VITA reserves the right to order any of Supplier's Services at any time during the term of this Contract or any extension thereto. Notwithstanding all VITA's rights to obtain Supplier's Services under this Contract, VITA is not under any obligation to purchase any of Supplier's Services. This Contract is non-exclusive and VITA and all public bodies may, at their sole discretion and in accordance with applicable law and regulation, purchase, license or otherwise receive benefits from third party suppliers of services similar to, or in competition with, the services provided by Supplier.

B. Subcontractors

If Supplier subcontracts the provision of Services under this Contract to any other party, Supplier (i) shall act as prime contractor and shall be the sole point of contact with regard to all obligations under this Contract, and (ii) hereby represents and warrants that any authorized subcontractors performing the Services shall perform the Services in accordance with the warranties set forth in this Contract. Supplier shall not subcontract any Services pursuant to this Contract to any subcontractor that is a party excluded from Federal Procurement and Nonprocurement Programs.

C. Substitution of Services

During the term of this Contract, the Supplier is not authorized to substitute for any Service identified in the Pricing Exhibit a service not identified in the Pricing Exhibit. Violation of this condition may be considered grounds for termination of the Contract. Supplier is not authorized to substitute for any Service identified in the Pricing Exhibit any other Service identified in the Pricing Exhibit without the written permission of VITA . Violation of this condition may be considered grounds for termination of the Contract.

5. SUPPLIER PERSONNEL

A. Selection and Management of Supplier Personnel

Supplier shall be solely responsible for the conduct of its employees, agents, and subcontractors, including all acts and omissions of such employees, agents, and subcontractors, and shall ensure that such employees, agents, and subcontractors comply with the appropriate public body's site security, information security and personnel conduct rules, as well as applicable federal, state and local laws and regulations, including those related to imports and exports. Supplier Personnel Supervision

Supplier acknowledges that Supplier, or any of its agents, contractors, or subcontractors, is and shall be the employer of Supplier personnel, and shall have sole responsibility to supervise, counsel, discipline, review, evaluate, set the pay rates of and terminate the employment of Supplier personnel.

6. GENERAL WARRANTY

With respect to the Services provided by Supplier, Supplier represents and warrants the following:

A. Ownership

Supplier has the right to provide the Services and, to the best of its knowledge, the provision of such Services does not violate or infringe any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party.

B. Performance

All Services shall be performed with care, skill and diligence, consistent with or above applicable professional standards currently recognized in Supplier's profession, and Supplier shall be

responsible for the professional quality, technical accuracy, completeness and coordination of all Services furnished under this Contract;

The Services are pursuant to a particular solicitation, and therefore such Services and Deliverables shall be fit for the stated purposes specified by VITA and Supplier is possessed of superior knowledge with respect to the Services and is aware that VITA, Authorized Users, and public bodies on whose behalf VITA acquires Supplier's Services are relying on Supplier's skill and judgment in providing the Services;

The Services shall meet or exceed the stated requirements;

Any documentation which Supplier is required to provide under this Contract shall be sufficient in detail and content to allow a properly trained user to fully utilize the Services without reference to any other materials or information.

C. Services Warranty and Remedy

Throughout the Contract term, including any extensions thereto, Supplier shall respond to reports of interruption of Service and acknowledge all requests for restoration of Service with a status report within one (1) hour after notification by VITA that a Service failure has occurred. Supplier shall include in its status report a description of the failure and the estimated time to repair/restore Services.

D. Supplier's Viability

Supplier warrants that it has the financial capacity to perform and continue to perform its obligations under this Contract; that Supplier has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Supplier that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

E. Supplier's Past Experience

Supplier warrants that the Services have been successfully performed for a non-related third-party without significant problems due to the Services or Supplier.

THE OBLIGATIONS OF SUPPLIER UNDER THIS GENERAL WARRANTY SECTION ARE MATERIAL. SUPPLIER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY CONCERNING MERCHANTABILITY OR FITNESS FOR ANY OTHER PARTICULAR PURPOSE.

7. ORDERS AND COMPENSATION

A. Orders

Notwithstanding VITA's right to license or purchase Supplier's services under this Contract, is under no obligation to license or purchase from Supplier any of Supplier's services. This Contract is optional use and non-exclusive and VITA may, at its sole discretion, purchase, license or otherwise receive benefits from third party suppliers of services similar to, or in competition with, the services provided by Supplier.

This ordering authority is limited to issuing and canceling orders for the Services available under this Contract. Under no circumstances shall any Authorized User have the authority to modify this Contract.

B. Purchase Price and Price Protection

The Pricing Exhibit sets forth the fees and the applicable discounts. No public body will be required to pay any additional costs above those costs provided for in the Pricing Exhibit. Supplier may submit to VITA a request for an increase in such fees or a decrease in such discounts. Such request must be accompanied by written documentation to VITA demonstrating the additional value reflected by such increase in fee or decrease in discount. VITA may, in its sole discretion, agree to a modification of this Contract to effectuate such increase in fees or decrease in discounts.

Any price decrease effectuated during the Contract term, or any extension thereto, by reason of market change shall be passed on to VITA. This decrease shall be effective on the date the price decrease is announced to the general public.

At all times during the term of this Contract and any extensions thereto, Supplier's prices on the Pricing Exhibit shall at all times comply with §§ 56-234 et seq. of the Code of Virginia. Supplier's failure to comply with the aforereferenced statute shall be grounds for termination of the Contract or any order issued hereunder for default and/or breach; and VITA may pursue any remedies available at law or in equity with regard to such failure to comply.

C. Invoice and Payment Terms

All payment obligations under this Contract are subject to the availability of legislative appropriations at the federal, state, or local level, for this purpose. In the event of non-appropriation of funds, irrespective of the source of funds, for the items under this Contract, VITA may terminate this Contract, in whole or in part, or any order, in whole or in part, for those services for which funds have not been appropriated. Written notice will be provided to the Supplier as soon as possible after legislative action is completed.

Supplier shall deliver to VITA one consolidated monthly invoice for all services ordered by and billable to VITA pursuant to this Contract. VITA is not obligated to pay against an invoice that is not readable and verifiable.

Supplier is responsible for the accuracy of its billing information. Charges for Services accepted more than ninety (90) days prior to receipt of a valid invoice may not be paid.

If there are any disputed items, VITA shall pay all undisputed charges and promptly notify Supplier in writing of any disputed amount. Supplier shall thereupon review its records, and, if Supplier does not concur with VITA it shall provide VITA with documentation to support the charge within fifteen (15) days of notification of the disputed amount. If such charges remain in dispute, such dispute shall be resolved in accordance with the Dispute Resolution section of this Contract. In the absence of the Supplier's written evidence identifying the merit of the disputed amounts, VITA may not pay the disputed amounts and may consider the matter concerning the specific identified amounts closed.

D. Invoice Procedures

Supplier shall promptly remit each invoice to the "bill-to" address provided in Exhibit B. Supplier shall submit invoices for monthly recurring charges monthly in advance and for usage-based or other miscellaneous charges in arrears. No invoice shall include any costs other than those identified in the executed order, which costs shall be in accordance with the Pricing Exhibit. In addition, all Services provided under this Contract shall be billed by the Supplier at the Contract price, regardless of which public body is benefiting from the Services. Without limiting the foregoing, all shipping costs are the Supplier's responsibility except to the extent such charges are identified in the Pricing Exhibit, or as noted in the executed order. Invoices issued by the Supplier shall identify at a minimum:

- Service type and description, with charges identified at the lowest level of detail (i.e., phone level)

- Applicable order date

- This Contract number and the applicable order number

- Supplier's Federal Employer Identification Number (FEIN).

No invoice will be paid without adequate billing details. If available, charges should be provided on electronic media at the detail level.

Any credits due VITA under the terms of this Contract may be applied against Supplier's invoices to VITA on the same account with appropriate information attached.

The Parties agree that any terms included on Supplier's invoice shall have no force or effect and will in no way bind VITA.

8. CONFIDENTIALITY

A. Treatment and Protection

Each Party shall (i) hold in strict confidence all Confidential Information of any other Party, (ii) use the Confidential Information solely to perform or to exercise its rights under this Contract, and (iii) not transfer, display, convey or otherwise disclose or make available all or any part of such Confidential Information to any third-party. However, VITA or any public body recipient of Supplier's Services, may disclose the Confidential Information as delivered by Supplier to subcontractors, contractors or agents of VITA or such public body that are bound by non-disclosure contracts with VITA or such public body. Each Party shall take the same measures to protect against the disclosure or use of the Confidential Information as it takes to protect its own proprietary or confidential information (but in no event shall such measures be less than reasonable care).

B. Exclusions

The term "Confidential Information" shall not include information that is:

- i). in the public domain through no fault of the receiving Party or of any other person or entity that is similarly contractually or otherwise obligated;
- ii). obtained independently from a third-party without an obligation of confidentiality to the disclosing Party and without breach of this Contract;
- iii). developed independently by the receiving Party without reference to the Confidential Information of the other Party; or
- iv). required to be disclosed under The Virginia Freedom of Information Act (§§2.2-3700 et seq. of the Code of Virginia) or similar laws or pursuant to a court order.

C. Return or Destruction

Upon the termination or expiration of this Contract or upon the earlier request of the disclosing Party, the receiving Party shall (i) at its own expense, (a) promptly return to the disclosing Party all tangible Confidential Information (and all copies thereof except the record required by law) of the disclosing Party, or (b) upon written request from the disclosing Party, destroy such Confidential Information and provide the disclosing Party with written certification of such destruction, and (ii) cease all further use of the other Party's Confidential Information, whether in tangible or intangible form.

9. LIABILITY AND INDEMNIFICATION

Supplier agrees to indemnify, defend and hold harmless VITA, the Commonwealth, Authorized Users, or any other public body recipient of Services, their officers, directors, agents and employees ("Commonwealth's Indemnified Parties") from and against any and all third party claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, fines, judgments, settlements, expenses (including attorneys' and accountants' fees and disbursements) and costs (each, a "Claim" and collectively, "Claims"), incurred by, borne by or asserted against any of Commonwealth's Indemnified Parties to the extent such Claims in any way relate to, arise out of or result from: (i) any intentional or willful conduct or negligence of any employee or subcontractor of Supplier, (ii) any act or omission of any employee or subcontractor of Supplier, (iii) breach of any representation, warranty or covenant of Supplier contained herein, (iv) any defect in the Services provided by Supplier, or (v) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Services.

Selection and approval of counsel and approval of any settlement shall be accomplished in accordance with all applicable laws, rules and regulations. For state agencies the applicable laws include §§ 2.2-510 and 2.2-514 of the Code of Virginia. In all cases the selection and approval of counsel and approval of any settlement shall be satisfactory to VITA or the public body against whom the claim has been asserted.

In the event that a Claim is commenced against any of Commonwealth's Indemnified Parties alleging that the provision of Services under this Contract infringes any third party's intellectual property rights and Supplier is of the opinion that the allegations in such Claim in whole or in part are not covered by this indemnification provision, Supplier shall immediately notify VITA and the affected public body(ies) in writing, via certified mail and via email, if available, specifying to what extent Supplier believes it is obligated to defend and indemnify under the terms and conditions of this Contract. Supplier shall in such event protect the interests of the Commonwealth's Indemnified Parties and secure a continuance to permit VITA and the affected public body(ies) to appear and defend their interests in cooperation with Supplier as is appropriate, including any jurisdictional defenses VITA or the affected public body(ies) may have.

In the event of a Claim pursuant to any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Services,, and in addition to all other obligations of Supplier in this Section, Supplier shall at its expense, either (a) procure for all public bodies the right to continue use of such infringing Services, or any component thereof; or (b) replace or modify such infringing Services, or any component thereof, with non-infringing products or services satisfactory to VITA. And in addition, Supplier shall reimburse VITA or any affected public body for the reasonable costs incurred by VITA or such public body in obtaining an alternative service in the event such public body cannot use the affected Services

EXCEPT WITH REGARD TO CLAIMS FOR PROPERTY DAMAGE, PERSONAL INJURY OR INFRINGEMENT, AND THE INDEMNIFICATION AND CONFIDENTIALITY OBLIGATIONS, WITH RESPECT TO EACH OF WHICH LIABILITY SHALL NOT BE LIMITED PURSUANT TO THIS SECTION, IN NO EVENT WILL ANY PARTY BE LIABLE TO ANY OTHER PARTY (OR THE INDEMNIFIED PARTIES OF SUCH PARTY) FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING (WITHOUT LIMITATION) LOSS OF PROFIT, INCOME OR SAVINGS, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, EXCEPT WHEN SUCH DAMAGES ARE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTY, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS.

10. SECURITY COMPLIANCE

Supplier agrees to comply with all provisions of the then current security procedures of VITA and/or the relevant public body recipient of Supplier's Services as are pertinent to Supplier's operation and have been supplied to Supplier by VITA or such public body and further agrees to comply with all applicable federal, state and local laws. For any individual Commonwealth location, security procedures may include but not be limited to: background checks, records verification, photographing, and fingerprinting of Supplier's employees or agents. Supplier may, at any time, be required to execute and complete, for each individual Supplier employee or agent, additional forms which may include non-disclosure agreements to be signed by Supplier's employees or agents acknowledging that all Commonwealth information with which such employees and agents come into contact while at the end user public body site is confidential and proprietary. Any unauthorized release of proprietary information by the Supplier or an employee or agent of Supplier shall constitute a breach of this Contract.

Supplier shall indemnify, defend, and hold VITA, the Commonwealth, and any other public body recipient of Supplier's Services, their officers, directors, employees and agents harmless from and against any and all fines, penalties (whether criminal or civil), judgments, damages and assessments, including reasonable expenses suffered by, accrued against, or charged to or recoverable from VITA, the Commonwealth, and any other public body recipient of Supplier's Services, their officers, directors, agents or employees, on account of the failure of Supplier to perform its obligations pursuant this Section.

11. BANKRUPTCY

If Supplier becomes insolvent, takes any step leading to its cessation as a going concern, fails to pay its debts as they become due, or ceases business operations continuously for longer than fifteen (15) business days, then VITA may immediately terminate this Contract or any order

issued hereunder, may terminate an order, on notice to Supplier unless Supplier immediately gives VITA adequate assurance of the future performance of this Contract or the applicable order. If bankruptcy proceedings are commenced with respect to Supplier, and if this Contract has not otherwise terminated, then VITA may suspend all further performance of this Contract until Supplier assumes this Contract and provides adequate assurance of performance thereof or rejects this Contract pursuant to Section 365 of the Bankruptcy Code or any similar or successor provision, it being agreed by the VITA and Supplier that this is an executory contract. Any such suspension of further performance by VITA pending Supplier's assumption or rejection shall not be a breach of this Contract, and shall not affect VITA's right to pursue or enforce any of its rights under this Contract or otherwise.

12. GENERAL PROVISIONS

A. Relationship Between VITA, Commonwealth Public Bodies, and Supplier

Supplier has no authority to contract for VITA or any Commonwealth public body or in any way to bind, to commit VITA or any Commonwealth public body to any agreement of any kind, or to assume any liabilities of any nature in the name of or on behalf of VITA or any Commonwealth public body. Under no circumstances shall Supplier, or any of its employees, hold itself out as or be considered an agent or an employee of VITA or any Commonwealth public body, and neither VITA nor any Commonwealth public body shall have any duty to provide or maintain any insurance or other employee benefits on behalf of Supplier or its employees. Supplier represents and warrants that it is an independent contractor for purposes of federal, state and local employment taxes and agrees that neither VITA nor any Commonwealth public body is responsible to collect or withhold any federal, state or local employment taxes, including, but not limited to, income tax withholding and social security contributions, for Supplier. Any and all taxes, interest or penalties, including, but not limited to, any federal, state or local withholding or employment taxes, imposed, assessed or levied as a result of this Contract shall be paid or withheld by Supplier or, if assessed against and paid by VITA or any Commonwealth public body, shall be reimbursed by Supplier upon demand by VITA or such Commonwealth public body.

B. Licenses and Permits

Supplier shall be responsible for obtaining all rights-of-way, licenses, and/or permits required by applicable authorities in order to perform installation Services at the location(s) specified on any order issued pursuant to this Contract.

C. Incorporated Contractual Provisions

The contractual provisions at the following URL are statutorily mandated provisions that are hereby incorporated by reference:

<http://www.vita.virginia.gov/procurement/documents/StatutorilyMandatedTsandCs.pdf>

The contractual claims provision at §2.2-4363 of the Code of Virginia is also incorporated by reference.

The terms and conditions in the document posted to the aforereferenced URL are subject to change pursuant to action by the legislature of the Commonwealth of Virginia. If a change is made to the terms and conditions, a new effective date will be noted in the document title. Supplier is advised to check the URL periodically.

D. Compliance with the Federal Lobbying Act

Supplier shall not, in connection with this Contract, engage in any activity prohibited by 31 USC 1352 (entitled "Limitation on use of appropriated funds to influence certain Federal Contracting and financial transactions") or by the regulations issued from time to time thereunder (together, the "Lobbying Act"), and shall promptly perform all obligations mandated by the Lobbying Act in connection with this Contract, including, without limitation, obtaining and delivering to the Commonwealth all necessary certifications and disclosures.

Supplier is hereby advised that a significant percentage of the funds used to pay Supplier's invoices under this Contract may be federal funds. Under no circumstances shall any provision of this Contract be construed as requiring or requesting the Supplier to influence or attempt to influence any person identified in 31 USC 1352(a)(1) in any matter.

Supplier's signed certification of compliance with the foregoing is incorporated as Exhibit C hereto.

E. Governing Law

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to that body of law controlling choice of law. Any and all litigation shall be brought in the circuit courts of the Commonwealth of Virginia. The English language version of this Contract prevails when interpreting this Contract. The United Nations Convention on Contracts for the International Sale of Goods and all other laws and international treaties or conventions relating to the sale of goods are expressly disclaimed. UCITA shall apply to this Contract only to the extent required by §59.1-501.15 of the Code of Virginia.

F. Dispute Resolution

In accordance with §2.2-4363 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the public body from whom the relief is sought no later than sixty (60) days after final payment; however, written notice of the Supplier's intention to file such claim must be given to such public body at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The relevant public body shall render a final decision in writing within thirty (30) days after its receipt of the Supplier's written claim.

The Supplier may not invoke any available administrative procedure under §2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the decision of the relevant public body on the claim, unless that public body fails to render its decision within thirty (30) days. The decision of the relevant public body shall be final and conclusive unless the Supplier, within six (6) months of the date of the final decision on the claim, invokes appropriate action under §2.2-4364, Code of Virginia or the administrative procedure authorized by §2.2-4365, Code of Virginia.

Upon request from the public body from whom the relief is sought, Supplier agrees to submit any and all contractual disputes arising from this Contract to such public body's alternative dispute resolution (ADR) procedures, if any. Supplier may invoke such public body's ADR procedures at any time and concurrently with any other statutory remedies prescribed by the Code of Virginia.

In the event of any breach by a public body, Supplier's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Supplier's remedies include the right to terminate any license or support services hereunder.

G. Advertising and Use of Proprietary Marks

Supplier shall not use the name of VITA or any Commonwealth public body or refer to VITA or any Commonwealth public body, directly or indirectly, in any press release or formal advertisement without receiving prior written consent of VITA or such Commonwealth public body. In no event may Supplier use a proprietary mark of VITA or any Commonwealth public body without receiving the prior written consent of VITA or such Commonwealth public body.

H. Notices

Any notice required or permitted to be given under this Contract shall be in writing and shall be deemed to have been sufficiently given if delivered in person, or if deposited in the US mails, postage prepaid, for mailing by registered, certified mail, or overnight courier service addressed to the addresses shown on the signature page. VITA or Supplier may change its address for notice purposes by giving the other Party notice of such change in accordance with this Section.

I. No Waiver

Any failure to enforce any terms of this Contract, including termination for breach, shall not constitute a waiver.

J. Assignment

This Contract shall be binding upon and shall inure to the benefit of the permitted successors and assigns of VITA and Supplier. Supplier may not assign, subcontract, delegate or otherwise convey this Contract, or any of its rights and obligations hereunder, to any entity without the prior written consent of VITA, and any such attempted assignment or subcontracting without consent

shall be void. VITA may assign this Contract to any entity, so long as the assignee agrees in writing to be bound by the all the terms and conditions of this Contract.

If any law limits the right of VITA or Supplier to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be thirty (30) days after the Supplier gives VITA prompt written notice of the assignment, signed by authorized representatives of both the Supplier and the assignee. Any payments made prior to receipt of such notification shall not be covered by this assignment.

K. Captions

The captions are for convenience and in no way define, limit or enlarge the scope of this Contract or any of its Sections.

L. Severability

Invalidity of any term of this Contract, in whole or in part, shall not affect the validity of any other term. VITA and Supplier further agree that in the event such provision is an essential part of this Contract, they shall immediately begin negotiations for a suitable replacement provision.

M. Survival

The provisions of this Contract regarding Warranty, Confidentiality, and Liability and Indemnification, and the General Provisions shall survive the expiration or termination of this Contract.

N. Force Majeure

No Party shall be responsible for failure to meet its obligations under this Contract if the failure arises from causes beyond the control and without the fault or negligence of the non-performing Party. If any performance date under this Contract is postponed or extended pursuant to this section for longer than thirty (30) calendar days, VITA, by written notice given during the postponement or extension, may terminate Supplier's right to render further performance after the effective date of termination without liability for that termination, and in addition may terminate any order affected by such postponement or delay.

O. Remedies

The remedies set forth in this Contract are intended to be cumulative. In addition to any specific remedy, VITA and all Commonwealth public bodies reserve any and all other remedies that may be available at law or in equity.

P. Right to Audit

VITA reserves the right to audit those Supplier records that relate to the Services rendered or the amounts due Supplier for such Services under this Contract. VITA's right to audit shall be limited as follows:

- Three (3) years from Service performance date;

- Performed at Supplier's premises, during normal business hours at mutually agreed upon times; and

- Excludes access to Supplier cost information.

The Supplier shall not have the right to audit, or require to have audited, VITA or any Commonwealth public body.

Q. Taxes—Federal, State, and Local

The Commonwealth of Virginia is exempt from Federal excise and all State and Local taxes. Such taxes shall not be included in Contract prices. Tax certificates of exemption, Form ST-12 can be obtained online at <http://www.tax.state.va.us/>. Deliveries against this Contract shall be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K. The Commonwealth is also exempt from paying E-911 charges.

R. Contract Administration and Account Management

Supplier agrees that at all times during the term of this Contract an account executive ("Account Manager"), at Supplier's senior management level, shall be assigned and available to VITA.

Supplier reserves the right to change such account executive upon reasonable advance written notice to VITA.

The Account Manager's responsibilities should include (i) resolution of technical support questions and issues which have not been resolved by Supplier's technical support division; (ii) preparation of account information and response to and resolution of inquiries regarding billing and payment; and (iii) investigation and resolution of customer service issues and complaints.

S. Entire Contract

The following documents, including all subparts thereof, are attached to this Contract and are made a part of this Contract for all purposes:

- Exhibit A Pricing Exhibit
- Exhibit B Service Requirements
- Exhibit C Certification Regarding Lobbying
- Exhibit D Ordering Officers

This Contract, all its Exhibits, and any prior non-disclosure agreement constitute the entire agreement between VITA and Supplier, and supersede any and all previous representations, understandings, discussions or agreements between VITA and Supplier as to the subject matter hereof. Any and all terms and conditions contained in, incorporated into, referenced by or provided with the Supplier's bid shall be deemed invalid. The provisions of the Virginia Department of General Services, Division of Purchases and Supply Vendor's Manual do not apply to this Contract. This Contract may only be amended by an instrument in writing signed by VITA and Supplier.

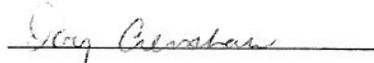
In the event of a conflict, the following order of precedence shall apply: this Contract document, Exhibit A, Pricing Exhibit, then any specific order. VITA and Supplier each acknowledge that it has had the opportunity to review this Contract and to obtain appropriate legal review if it so chose.

This Contract is effective as of the date set forth below.

Supplier: MessageVision, Inc.

VITA

Name: 

Name: 

Title: Chief Financial Officer

Title: Strategic Sourcing Manager

Date: July 23, 2009

Date: 8/11/09