



Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Agreement No.: A-13194

Upon motion of Supervisor Salinas, seconded by Supervisor Armenta and carried by those members present, the Board of Supervisors hereby:

- a. Authorized the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute an Agreement with SPOK, Inc. for internet capable pager services at NMC for an amount not to exceed \$150,000 for the term July 1, 2016 through June 30, 2018; and
- b. Authorized the Deputy Purchasing Agent for NMC or his designee to execute p to three (3) future amendments to the agreement which do not significantly alter the scope of work and do not cause an increase of more than ten percent (10%) of the original cost of the agreement per Amendment.

PASSED AND ADOPTED on this 28th day of June 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas and Parker

NOES: None

ABSENT: Supervisor Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 79 for the meeting on June 28, 2016.

Dated: June 29, 2016
File ID: A 16-187

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy



WIRELESS COMMUNICATION SERVICES AGREEMENT

THIS WIRELESS COMMUNICATION SERVICES AGREEMENT (the "**Agreement**") is made and effective on July 1, 2016 (the "**Effective Date**") by and between Spok, Inc. ("**Company**") and the County of Monterey on behalf of Natividad Medical Center ("**Customer**") in an amount not to exceed \$150,000.

WHEREAS, Company is a provider of wireless messaging and related services (the "**Services**") and wireless messaging equipment (the "**Equipment**");

WHEREAS, Customer desires to acquire Services and Equipment, as more fully described in Exhibit A hereto, from Company, and Company desires to provide Services and Equipment to Customer.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1) **PROVISION OF SERVICES AND EQUIPMENT.** Company agrees to provide to Customer, and Customer agrees to obtain from Company, Service and Equipment for use by Customer's employees, or other third parties as specifically permitted by Company herein (collectively, the "**Subscribers**"), in accordance with the terms and conditions of this Agreement. The scope of Services and Equipment, and the charges therefor, are set forth on Exhibit A which is attached hereto and made a part hereof. Customer agrees that it is responsible for all activities and usage of its Subscribers hereunder. Any new or additional services and equipment not listed on Exhibit A which may be requested by Customer and provided by Company at any time hereafter will be subject to the terms and conditions of this Agreement and an amendment which will be executed by both Company and Customer in order for it to be binding. Provision of Services and Equipment are subject to applicable regulatory requirements.

2) **TERM OF AGREEMENT.** This Agreement shall be effective for a period of two (2) years, beginning with the above date (the "**Initial Term**"). This agreement will expire on the term expiration date and will only renew with an Amendment signed by both parties extending the term. Subject to Section 12 below, the "**Term**" of this Agreement will consist of the Initial Term.

3) **INTENTIONALLY LEFT BLANK.**

4) **USE OF SERVICES AND EQUIPMENT BY CUSTOMER.**

a) **General.** Company provides the Services through authority granted to it by the Federal Communications Commission (the "**FCC**"). The use and provision of the Services and Equipment are subject to the rules and regulations of the FCC and applicable federal, state and local regulatory authorities in effect during the term hereof, and Customer agrees to comply with all of such laws and with such reasonable conditions as Company may require from time to time, including but not limited to compliance with Spok, Inc.'s Acceptable Use Policy, attached hereto as Exhibit C and its Privacy Policy attached hereto as Exhibit D. Customer may not use, nor permit any of its Subscribers to use, the Services and/or Equipment for promotional purposes or for resale. Neither Customer nor any Subscriber may transfer any of the Services or Equipment without the prior written approval of Company. Customer and its Subscribers may only use the Services and Equipment for personal and lawful purposes and for the purposes intended. Company will designate, coordinate and assign for Customer and the Subscribers the capcodes, personal identification numbers, email addresses and telephone numbers (collectively, the "**Numbers**") for all Equipment using Services provided by Company. Neither Customer nor the Subscribers shall obtain any ownership interest in, or exclusive right to use, such Numbers. Company reserves the right to

July 2014

SPOK, Inc. Agreement
Term: 7/1/16 - 6/30/18
NTE: \$150,000

assign, designate, reassign or change Numbers as reasonably necessary in the conduct of its business. Customer will not permit any Number to be used by more than one unit of Equipment.

b) **Excessive Use of Network.** (i) Subject to Company's Acceptable Use Policy, and other general terms and conditions contained in this Agreement or incorporated herein and available at www.spok.com, all uses of Company's networks, including without limitation under Service plans that allow for an unlimited number of messages or characters ("Unlimited Use Plans") are subject to all reasonable restrictions on use that Company may impose, at its sole discretion and without prior notice, for protection of the networks and other Company customers. Unless otherwise expressly agreed by Company in writing, Services, including those under Unlimited Use Plans cannot be used for: (1) uploading, downloading or streaming of movies, music or games, (2) with server devices or with hosted computer applications, including, but not limited to, automatic data feeds, automated machine-to-machine connections, or peer-to-peer (P2P) file sharing, or (3) as a substitute or backup for dedicated data connections.

(ii) Company reserves the right to limit throughput or amount of data transferred, and deny or terminate service, without notice, to Customer if the Company believes Customer is using any Usage Plan in any manner prohibited herein or that adversely impacts Company's network or service levels. Company reserves the right to protect its network from harm, which may impact legitimate data flows, by disconnecting customers or limiting their access to the network in the event of any violations of these provisions. Company also reserves the right to treat excessive use of the Service as a material breach of this Agreement and to permanently terminate service to Customer for such excessive use. Excessive use is defined as:

Input Protocol	Maximum Messages Allowed per Time Frame	Time Frame (in Seconds)	Maximum Messages Per Day
SMTP	15	300	1000
WCTP	10	300	1000
HTTP	10	300	250
TAP	30	300	3000

5) **PURCHASE OF EQUIPMENT.** If Customer purchases any Equipment from Company hereunder, the following terms and conditions shall apply:

a) **Selection and Availability of Equipment.** Customer shall be responsible for the selection of models of Equipment in accordance with its desired use and functionality and shall be responsible for payment with respect to all Equipment ordered by any of its Subscribers. Company may provide new or refurbished Equipment to Customer. The models of Equipment listed on Exhibit A, as the same may be amended from time to time, are subject to availability from the manufacturer, and may be discontinued or replaced by other models at any time.

b) **Title to the Equipment; Risk of Loss.** Upon receipt of payment in full for the Equipment, title to such Equipment shall pass to Customer free and clear of any lien or encumbrances arising out of Company's ownership thereof. Customer assumes full responsibility for the risk of loss or damage upon delivery of the Equipment to Customer, and no loss, theft or damage to the Equipment thereafter shall relieve Customer of its obligations to pay any fees and charges due to Company with respect to the purchase of such Equipment. Company shall retain a purchase money security interest in Equipment in any amount of the unpaid balance of the purchase price until such Equipment has been paid in full. To the extent that local law requires Customer to sign any such financing statement, Customer will do so upon Company's request and return the same to Spok, Inc. within two (2) business days of Customer's receipt of the financing statement(s).

c) **Warranty and Repair.**

(i) Items of Equipment shall be deemed to have been delivered to Customer in good working order unless Customer returns the same to Company for exchange or repair within thirty (30) days after delivery.

(ii) In the event Customer elects to purchase maintenance protection ("**Maintenance**"), Company shall maintain such Customer owned Equipment. Company shall, at its discretion, repair or replace (with a substantially similar unit) such Equipment at no additional cost to Customer that Company determines to be defective. The Maintenance charges, including the applicable deductibles, if any, are set forth on Exhibit A. However, in the event that Equipment covered by Maintenance is damaged while in Customer's possession, or is returned to Company with parts missing, Company shall charge Customer for such repair or replacement of such Equipment (including, without limitation, for all replacement parts, repair charges and handling fees in effect at such time). Devices that have been contaminated with bio-hazardous waste or devices that have been submerged in any liquid must not be shipped or returned to Spok. Such devices are considered damaged beyond repair and should be disposed of using customer's appropriate occupational health and safety protocols.

(iii) In the event Customer opts not to purchase Maintenance, or such Maintenance is not available to Customer, Company shall, at its discretion, repair or replace Customer owned Equipment at the fees and expenses in effect at the time of such repair or replacement. Company shall have the right to charge Customer for all replacement parts and handling and administrative charges in effect at such time. Company shall use commercially reasonable efforts to pass through manufacturers' warranties, if any, to Customer, to the extent permitted by such manufacturer.

d) **Encryption.** Company reserves the right to sell Equipment that has been manufactured with passwords and encryption for security purposes. Such encryption or passwords may be used to disable the Equipment in the event of misuse of Services or the refrequencing of the Equipment on the messaging network of another carrier.

6) **LEASE OF EQUIPMENT.** If Customer leases any Equipment from Company hereunder, the following terms and conditions shall apply:

a) **Selection and Availability of Equipment.** Customer shall be responsible for the selection of models of Equipment in accordance with its desired use and functionality and shall be responsible for payment with respect to all Equipment ordered by any of its Subscribers. Company may provide new or refurbished Equipment to Customer. The models of Equipment listed on Exhibit A, as the same may be amended from time to time, are subject to availability from the manufacturer, and may be discontinued or replaced by other models at any time.

b) **Title to the Equipment; Risk of Loss.** Title to all Equipment leased by Company to Customer shall remain in Company. Promptly (not to exceed ten (10) days) upon (i) the expiration or termination of this Agreement, or (ii) such time as the Equipment is no longer in use by Customer, Customer shall return (at its sole cost and expense) all leased Equipment (or items of Equipment no longer in use, as the case may be) to Company in accordance with Company's shipping instructions. Customer shall be responsible for the safekeeping of all such Equipment and shall return same to Company in substantially the same condition as it was received by Customer, reasonable wear and tear excepted. COMPANY WILL CONTINUE TO CHARGE CUSTOMER THE MONTHLY LEASE AND SERVICES CHARGES FOR EACH ITEM OF EQUIPMENT UNTIL IT IS RETURNED TO COMPANY IN GOOD CONDITION OR CUSTOMER HAS PAID THE FULL REPLACEMENT COST THEREFORE. Notwithstanding the foregoing, upon the expiration or earlier termination of this Agreement, in the event Customer has not returned Equipment by the sixtieth (60th) day thereafter, Customer shall pay Company the full replacement cost of such Equipment. Subject to the remainder of this Section 6(b), in the event Customer returns Equipment that is damaged or has missing parts, Company shall charge Customer for all replacement parts and repairs charges in effect at such time. Devices that have been contaminated with bio-hazardous waste or devices that have been submerged in any liquid must not be shipped or returned to Company. Such devices are considered damaged beyond repair and should be disposed of using customer's appropriate occupational health and safety protocols. Customer shall be responsible for the replacement cost set forth on Exhibit A for any lost or stolen Equipment, or Equipment which is damaged beyond repair, unless Customer has purchased the Loss Protection

Plan described on Exhibit A. Company shall invoice Customer for Services and the monthly lease charges with respect to each unit of Equipment until Customer either: (i) provides Company with written notice of any lost or stolen Equipment, or Equipment which is damaged beyond repair, and makes a claim under the Loss Protection Plan, if Customer has elected to participate in such plan, or (ii) pays Company the replacement cost set forth on Exhibit A.

c) **Warranty and Repair.** Customer may return for exchange any item of leased Equipment that is defective at any time during the term of this Agreement, and Company, at its option, shall repair such Equipment or replace it with substantially similar Equipment. Subject to Section 6(b) above pertaining to Equipment that has been damaged beyond repair, in the event such leased Equipment is damaged while in Customer's possession, or is returned to Company with parts missing, Company shall charge Customer for such repair or replacement of such Equipment (including, without limitation, for all replacement parts, repair charges and handling fees in effect at such time).

d) **Encryption.** Company reserves the right to lease Equipment that has been manufactured with passwords and encryption for security purposes. Such encryption or passwords may be used to disable the Equipment in the event of misuse of Services, Customer breach of this Agreement, or the re-frequencing of the Equipment on the messaging network of another carrier.

7) STANDARD OF PERFORMANCE.

a) Company shall provide Services consistent with the normal and reasonable standards of the wireless messaging industry. Company shall promptly investigate any complaints made by Customer and shall take such steps as are commercially reasonable and necessary to correct any deficiency in the Service. Adjustments for Service interruptions shall be made in accordance with Section 10(e) hereof.

b) Company warrants that Company's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of Customer, or immediate family of an employee of Customer.

8) WARRANTY DISCLAIMER.

a) **THE LIMITED WARRANTIES AND REMEDIES CONTAINED HEREIN ARE THE EXCLUSIVE WARRANTIES AND REMEDIES OFFERED BY COMPANY. COMPANY MAKES NO OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, CONCERNING THE SERVICE, THE EQUIPMENT OR ITS FACILITIES, NETWORK OR SYSTEM, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, WHICH COMPANY SPECIFICALLY DISCLAIMS.** If any court finds any such warranty to exist, Company's liability for any imputed breach thereof shall not exceed the proportionate charges to Customer during the month in which such imputed breach occurs.

b) Without limiting the generality of the foregoing, telecommunications services, including the Services, may be adversely affected by various conditions, including but not limited to electrical interference, terrain, weather, Acts of God or governmental authority (including limitations on the availability of telephone numbers or spectrum), equipment failure, user error and the failure of any satellite or other connecting telecommunications facilities, or circumstances beyond Company's control (each a "Force Majeure Event"). Periodic service interruptions may be necessary to perform maintenance on the networks and facilities. Company, therefore cannot and does not guarantee the availability of the Services at all times and under all circumstances, nor that all messages will be received in a timely manner. Wireless messaging services are not secure methods of transmission, and Company cannot and does not guarantee against improper actions of third parties that interfere with the privacy of messages or the integrity of the Services. Services related to databases and information content may contain inaccuracies from time to time that occur at the source or in the transmission process (including but not limited to errors in stock quotations, sports results and news

reports), and Company cannot and does not guarantee the accuracy or availability of such Services. Company's prices for the Services do not include insurance for these inherent risks.

c) **NOTICE TO SUBSCRIBERS REGARDING TRANSMISSION OF WIRELESS EMERGENCY ALERTS (Commercial Mobile Alert Service).** Spok, Inc. presently does not transmit wireless emergency alerts. Notice required by FCC Rule 47 C.F.R. § 10.240 (Commercial Mobile Alert Service).

9) **LIMITATION ON LIABILITY.**

CUSTOMER agrees that neither the COMPANY nor its Personnel will be liable to CUSTOMER for any claims, liabilities, or expenses relating to the Services, the Materials or the Agreement including without limitation, any loss or damage arising from any delay, loss or interruption of the service, or from any missed or incomplete page, for an amount not to exceed the maximum insurance amounts required as stated in this agreement except to the extent finally judicially determined to have results from the COMPANY's bad faith or intentional misconduct.

10) **BILLING, PAYMENT AND BILLING DISPUTES.**

a) **Prices.** Customer shall pay Company for Services and Equipment on behalf of itself and all of its Subscribers in accordance with the applicable rates set forth on Exhibit A. Upon the expiration of the Initial Term and with the enforcement of an Amendment to extend the Agreement term, new pricing may be negotiated for that new term which may result in increased fees.

b) **Taxes; Other Pass-Through Charges.** Unless otherwise specifically set forth therein, the rates set forth on Exhibit A do not include: (i) taxes or similar charges imposed by any law, ordinance, regulation, order or act of any governmental agency. CA sales tax shall be added to the cost of any goods/parts invoiced to NMC.

c) **Payment Terms.** Fees and charges for recurring Services, Equipment leasing and Equipment installment purchases will be invoiced to Customer monthly in advance (along with any taxes, Universal Service Fund and other regulatory charges and administrative charges applicable to or assessed against such Services and Equipment, and sums carried forward). Overcalls and other non-recurring fees, if any, for the month shall appear on the subsequent month's invoice. All Equipment purchases (other than installment purchases) will be invoiced upon delivery. Customer shall certify the invoice and shall make payment within thirty (30) days after the certified invoice has been received by the Monterey County Auditor-Controller. COMPANY MAY TEMPORARILY SUSPEND OR PERMANENTLY TERMINATE THE SERVICES TO CUSTOMER FOR NON-PAYMENT AFTER PROVIDING CUSTOMER WITH WRITTEN NOTICE AND SIXTY DAYS (60) TO RECTIFY PAYMENT ISSUE.

d) **Disputed Invoices.** If Customer wishes to contest an Company invoice, Customer will give written notice to Company within ninety (90) days after the date of each such invoice, setting forth the amount in dispute and the reasons therefore (a "**Dispute Notice**"); provided, however, that Customer may not withhold any undisputed amounts from payment during such dispute. If the dispute is resolved in Customer's favor, a credit in the amount of any overcharge will be made to Customer's account. All invoices for which a Dispute Notice is not delivered to Company within the time period set forth in this Section 10(d) shall be deemed conclusively accepted and all of Customer's claims deemed waived.

e) **Credit For Service Interruption.** In the event that Service is interrupted, subject to Sections 8 and 9, Customer's sole and exclusive remedy shall be the pro rata adjustment to the fixed monthly charges for Service (an "**Adjustment**"); provided that if an interruption does not impact all of Customer's Equipment, an Adjustment under this Section shall only be assessed against the pro rata monthly charge applicable to the affected Equipment. Notwithstanding the foregoing, an Adjustment shall only be made (i) for interruptions of more than thirty-six (36) consecutive hours in duration and (ii) from the time Company receives notice from Customer of such interruption until

the termination of such interruption. Such notice may be given by telephone and confirmed by facsimile transmission. Company shall not be obligated to make an Adjustment in the event that the interruption is caused by (i) Customer, Subscriber or any person using Customer's Equipment, including, among other things, (a) failure to comply with the Equipment's operating instructions or (b) any breach hereunder, (ii) any Force Majeure Event, (iii) scheduled outages or similar activities reasonably necessary or appropriate for the proper or improved operations of the Company, (iv) the Equipment, or (v) signal or coverage limitations.

11) **COMPANY'S OPERATING PROCEDURES.** Service shall be provided in compliance with the Operating Procedures attached hereto as Exhibit B, which are attached hereto and incorporated herein. Customer acknowledges that it has read and agrees to comply with the Operating Procedures.

12) **EVENTS OF DEFAULT; TERMINATION.**

a) During the term of this Agreement, Customer may terminate the Agreement for any reason by giving written notice of termination to the Company at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

b) Customer may cancel and terminate this Agreement for good cause effective immediately upon written notice to Company. "Good cause" includes the failure of Company to perform the required services at the time and in the manner provided under this Agreement. If Customer terminates this Agreement for good cause, Customer may be relieved of the payment of any consideration to Company, and Customer may proceed with the work in any manner, which Customer deems proper. The cost to Customer shall be deducted from any sum due the Company under this Agreement.

c) Customer's payments to Company under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for Customer's purchase of the indicated quantity of services, then Customer may give written notice of this fact to Company, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

d) **Termination after the Initial Term.** Either party may terminate this Agreement at any time after the Initial Term, for any reason or no reason, by notice given in accordance with Section 17(a) hereof, which notice must be received by the other no less than thirty (30) days prior to date on which such termination is to become effective. Customer will pay replacement fee for all equipment not returned within ninety days of the cancellation.

e) **Partial Termination.** Customer may terminate service on one or more, but less than all, units under Customer's account upon thirty days' prior written notice, subject to the terms of Section 3 hereof. If Customer has ten (10) or more wireless devices in service and at any time terminates service on twenty (20) percent of the units in service, the Customer shall pay Company the monthly fee for each terminated device multiplied times the number of months remaining in the Term of this Agreement.

f) **Events of Default of Customer.** Any of the events described below will be considered an event of default of Customer:

(i) **Nonpayment.** Failure by Customer to pay all amounts due Company under this Agreement when due.

(ii) **Misuse of Services.** Customer or any Subscriber has used the Services in violation of Section 4 above.

(iii) **Other Breaches.** Customer or any Subscriber has breached any material term or condition of this Agreement (other than as set forth in Sections 12(c)(i) and (ii) above) and such

December 2014

breach is not curable or if curable, has not been cured within thirty (30) days after written notice of such breach (specifying in reasonable detail the nature of such breach) from Company.

g) **Events of Default of Company.** Company will be in default of this Agreement if it has breached any material term or condition of this Agreement and such breach is not curable or if curable, has not been cured within forty-five (45) days after written notice of such breach (specifying in reasonable detail the nature of such breach) from Customer. Company will not be considered to be in default if it is unable to provide the Services or Equipment by reason of a Force Majeure Event or under any other circumstance identified in Section 8.

13) Indemnification BY COMPANY

COMPANY shall indemnify, defend, and hold harmless the CUSTOMER, its officers, agents and employees from any claim, liability, loss, injury or damage rising out of, or in connection with, performance of this Agreement by COMPANY and/or its agents, members, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the CUSTOMER. It is the intent of the Parties to this Agreement to provide the broadest possible indemnification for the CUSTOMER. COMPANY shall reimburse the CUSTOMER for all costs, attorneys' fees, expenses and liabilities incurred by the CUSTOMER with respect to any litigation in which COMPANY is obligated to indemnify, defend and hold harmless the CUSTOMER under this Agreement.

14) Indemnification BY CUSTOMER

The CUSTOMER shall indemnify, defend, and hold harmless COMPANY, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by the CUSTOMER and/or its agents, members, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by COMPANY. It is the intent of the Parties to this Agreement to provide the broadest possible coverage for COMPANY. The CUSTOMER shall reimburse COMPANY for all costs, attorneys' fees, expenses and liabilities incurred by COMPANY with respect to any litigation in which the CUSTOMER is obligated to indemnify, defend and hold harmless COMPANY under this Agreement.

15) INSURANCE.

15.1 Evidence of Coverage:

Prior to commencement of this Agreement, the COMPANY shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the COMPANY upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to NMC's Contracts/Purchasing Department, unless otherwise directed. The COMPANY shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and NMC has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the COMPANY.

15.2 Qualifying Insurers: All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by NMC's Contracts/Purchasing Director.

15.3 Insurance Coverage Requirements: Without limiting Company's duty to indemnify, COMPANY shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Companys, Products

and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

- ☐ Exemption/Modification (Justification attached; subject to approval).

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

- ☐ Exemption/Modification (Justification attached; subject to approval).

Workers' Compensation Insurance. If COMPANY employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

- ☐ Exemption/Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the COMPANY shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

- ☐ Exemption/Modification (Justification attached; subject to approval).

15.4 Other Requirements:

All insurance required by this Agreement shall be with a company acceptable to NMC and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date COMPANY completes its performance of services under this Agreement.

Each liability policy shall provide that NMC shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for COMPANY and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional insureds with respect to liability arising out of the Company's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the Company's insurance. The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by NMC, COMPANY shall file certificates of insurance with NMC's Contracts/Purchasing Department, showing that the COMPANY has in effect the insurance required by this Agreement. The COMPANY shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file.

Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

COMPANY shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by NMC, annual certificates to NMC's Contracts/Purchasing Department. If the certificate is not received by the expiration date, NMC shall notify COMPANY and COMPANY shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by COMPANY to maintain such insurance is a default of this Agreement, which entitles NMC, at its sole discretion, to terminate the Agreement immediately.

16) NATURE OF RELATIONSHIP. Nothing contained in this Agreement shall constitute either party as agent and principal, partner, joint venture or employer and employee of the other. Moreover, neither party has the authority to act on behalf of the other or otherwise bind the other in any manner.

17) NOTICES.

a) Any notice, request, instruction, legal process, or other document, other than with respect to the delivery of invoices and/or payments of invoices or as otherwise set forth in Section 10(e), to be given or made hereunder shall be served in the following manner:

If given to Company, notice shall be addressed to Company at the following address:

Spok, Inc.
6850 Versar Center, Suite 420
Springfield VA 22151-4148

With a copy (which shall not constitute notice) to:
Spok, Inc.
3000 Technology Blvd, Suite 400
Plano TX 75074
Attn: Sales Administration

If given to Customer, notice shall be addressed to Customer at the following address:

Customer
Natividad Medical Center
ATTN: Contracts Division
1441 Constitution Blvd.
Salinas, CA 93906
FAX: 831-757-2592
EMAIL: NorrisTS@Natividad.com

All such notices may be served by personal delivery, registered or certified U.S. mail or by any regular delivery service that provides receipt and evidence of delivery. Notices shall be deemed given two (2) days after the date of registration or certification with the U.S. Postal Service or on the date of actual delivery as stated on the receipt of delivery. Either party may change its address for notice purposes in the manner provided in this Agreement.

b) All invoices shall be addressed to Customer at the following address:

Customer
Natividad Medical Center
PO Box 81611
Salinas, CA 93912-1611

Invoices may be served by personal delivery, U.S. mail, or by any regular delivery service that provides receipt and evidence of delivery. Invoices shall be deemed delivered upon the earlier of (i) December 2014

four (4) days from the date of mailing if sent by U.S. mail, or (ii) the earliest of the date of (X) actual delivery, or (Y) refusal to accept delivery, if served by any other method.

c) All payments to be given or made hereunder shall be addressed to Company at the following address:

Spok, Inc.
PO Box 660324
Dallas TX 75266-0324

All payments shall be deemed delivered on the date of actual delivery.

d) Customer hereby agrees and consents to Company contacting Customer by e-mail or via one or more of Customer's units of Equipment regarding Service suspensions, interruptions or modifications, and/or other information regarding Customer's account; provided that notices of breach, legal process, and invoices shall be sent to Customer in accordance with the other provisions of this Section 17.

18. EMERGENCY PROVISION. Company acknowledges that Customer plans for the continuity of hospital operations during an emergency, especially sustained incidents, and that collaboration with contractor is necessary to maintain continuity of operations. Accordingly, Company shall provide the name and contact information of a representative who shall be available 24 hours a day,

Title: _____

Phone: 1-800-763-6255 (24x7x365)
(must list a personal cell phone or other number whereby successful contact is ensured)

During an emergency, company shall use its best efforts to provide customer with all available supplies, materials, equipment and/or services.. The Parties agree that time is of the essence. The delivery of company's supplies, materials, equipment and/or services will be mutually agreed upon by customer and company at the time of order and will be determined based on need and existing conditions. It is understood that current conditions, such as power outages, road closures, and damages to company's facility and/or equipment, will be taken into consideration.

19) **ASSIGNMENT.** This Agreement is not assignable or delegable by either party without the prior written consent of the other. Notwithstanding the foregoing, Company may assign or delegate its rights and obligations hereunder, without the written consent of Customer, to any affiliate, direct or indirect parent or subsidiary, or successor to its business (of whatever nature).

20) **FORCE MAJEURE.** Except for Customer payment obligations hereunder, operation of this Agreement shall be suspended during any period where a party's failure or delay in performance is the result of any Force Majeure Event.

21) **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of California (without giving effect to its choice of law provisions) applicable to agreements entered into and to be wholly performed within the State of California by residents of such State.

22) RESOLUTION OF DISPUTES.

a) The parties agree that no court shall have jurisdiction over any dispute between the parties unless they agree in writing or they have pursued alternative methods of dispute resolution as set forth in this Section. The sole exceptions will be (i) situations of insolvency or bankruptcy where the other party may fairly be said no longer to have freedom to resolve claims or (ii) disputes

concerning the confidentiality and intellectual property provisions hereof or other cases where a party is entitled to immediate equitable relief other than specific performance of the contract terms.

b) In the event either party has a dispute with the other, that party shall give written notice of that dispute to the other and propose a time and place, no later than 7 days thereafter, for a discussion to try to resolve it. Discussions will continue as the parties are available for no less than 30 days and longer if the parties agree to extend the time.

c) If the dispute cannot be resolved by discussion, the parties agree to submit it to a nationally known alternative dispute resolution organization with offices in Washington D.C. The first choice will be JAMS Endispute, but if that organization is unavailable for some reason the party raising the issue may select any other qualifying agency. The matter will first be submitted to nonbinding mediation in accordance with the rules of that organization, and mediation will be pursued by both parties in good faith until the mediator declares that the dispute cannot be resolved by that means. Within 7 days of the mediator's determination that the dispute cannot be resolved by mediation, either party may request that the same organization conduct an arbitration of the dispute, in accordance with its rules. If such a request is made, the parties will pursue arbitration according to the organization's rules, with the proviso that there will be only one arbitrator selected. The arbitrator's decision will be enforceable in any court of competent jurisdiction in accordance with applicable law.

d) If the parties for some reason are permitted or required to take a dispute to court, they shall proceed only in a US court located within the County of Monterey.

23) CONFIDENTIALITY.

a) **Customer Information.** COMPANY and its officers, employees, agents and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. COMPANY shall not disclose any confidential records or other confidential information received from CUSTOMER or prepared in connection with the performance of this Agreement, unless CUSTOMER specifically permits COMPANY to disclose such records or information. COMPANY shall promptly transmit to CUSTOMER any and all requests for disclosure of any such confidential records or information. COMPANY shall not use any confidential information gained by COMPANY in the performance of this Agreement except for the sole purpose of carrying out COMPANY's obligations under this Agreement.

"Customer Proprietary Network Information" or "CPNI" is information that relates to the quantity, technical configuration, type, destination, and location of, and amount Customer uses, the telecommunications service to which Customer subscribes, and that is made available to Company by Customer solely by virtue of the carrier-customer relationship. It does not include information such as name, telephone, number, address or advertising classification; that is, the kind of information that appears in a telephone book. Company can use CPNI without Customer's consent to do any of the following:

- (i) provide Customer with the services it ordered and bill Customer for them;
- (ii) protect Company's rights or property, or to protect our other users and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, Company's services;
- (iii) provide Customer with paging units or other equipment to be used in providing services to Customer, and provide maintenance and repair services to that equipment;
- (iv) comply with law or legal process (such as a warrant or subpoena).

Company does not otherwise access or use CPNI, or share CPNI with third parties. Other than for the foregoing purposes, under the rules of the FCC, Customer has rights to restrict the use of, disclosure of, and access to its CPNI. Consequently, if in the future Company wishes to use or access Customer's CPNI for purposes other than those described in this Section 20(b), or disclose it to third parties, it will give Customer written or electronic (*i.e.*, e-mail) notice of the type of use or

disclosure it wishes to make of CPNI, explaining Customer's rights to "opt in" or "opt out" of such use or disclosure. BY SIGNING THIS AGREEMENT, CUSTOMER AGREES TO COMPANY PROVIDING CUSTOMER WITH NOTICE REGARDING CPNI VIA E-MAIL.

c) The terms and conditions of Section 23(a) shall survive the expiration or earlier termination of this Agreement for a period of two (2) years.

24) **SIGNATURE AUTHORITY.** The individuals signing below on behalf of the contracting parties respectively warrant that they are properly and duly authorized to so sign and obligate their respective employers/principals. Upon execution of this Agreement, each party shall have the right to rely on such warranty and may rely on the apparent authority in asserting its rights hereunder and its fulfillment of its obligations hereunder.

25) **ENTIRE AGREEMENT.** This Agreement, along with the Exhibits and Attachments hereto, represents the entire agreement with respect to the subject matter hereof and supersedes all prior discussions and agreements between the parties relating to the subject matter hereof. This Agreement may be modified only by a written amendment duly signed by persons authorized to sign agreements on behalf of both parties, and shall not be supplemented or modified by any course of dealing or trade usage, other than as specified herein. Variance from or addition to the terms and conditions of this Agreement by any purchase order, or other written notification, shall be of no effect.

26) **SEVERABILITY; AMENDMENT.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable, such provision will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the validity, legality, and enforceability of the remaining provisions will not in any way be affected or impaired thereby. In the event of a change in applicable law, including without limitation, the rules, regulations or policies of the FCC, that impacts the provision of the Services or the agreed-upon conduct of the parties, this Agreement shall be amended to conform to the requirements of such applicable law. If a change in applicable law substantially deprives a party of its rights or benefits under this Agreement, or makes such party's performance materially more difficult or costly, then such party may terminate this Agreement upon thirty (30) days' prior written notice to the other.

27) **SURVIVAL.**

a) Any obligations and duties that by their nature are intended to extend beyond the expiration or earlier termination of this Agreement (including, by way of example and not limitation, the provisions regarding indemnification, limitation of liability and choice of law) shall survive any such expiration or termination and remain in effect as necessary or appropriate to fulfill such obligations or duties in accordance with such terms.

b) In the event this Agreement is not renewed by notification from the Customer for additional terms at the expiration of the current Term and Company continues to provide service to Customer, all Terms and Conditions as stated in this Agreement will remain in full force until terminated by either Party subject to Section 12 of this Agreement.

28) **WAIVER.** No delay or failure by either party in exercising any right under this Agreement, and no partial or single exercise of that right, will constitute a waiver of that right or any other right. Failure by either party to enforce any right under this Agreement will not be deemed a waiver of future enforcement of that or any other right.

29) **NO THIRD PARTY BENEFICIARIES.** This Agreement shall inure solely to the benefit of Company and Customer. There are no third party beneficiaries to this Agreement or the Services and Equipment provided hereunder, including but not limited to any Subscriber or family member of such Subscriber.

30) **INTELLECTUAL PROPERTY.** All intellectual property (copyrights, patents, trade secrets, confidential and proprietary information, license rights and the like) included in any of the Services

or Equipment provided by Company under this Agreement ("**Intellectual Property**") shall remain the sole and exclusive property of Company and its licensors and shall be subject to the standard end-user license agreements of Company and/or its licensors for such Intellectual Property. To the extent that no separate end-user license agreement is required, Spök, Inc. hereby grants to Customer and its Subscribers a non-exclusive, royalty-free license (or sublicense, as the case may be), for the Term hereof and in the service area in which Customer subscribes to the Service, to use, perform, and display the Intellectual Property contained in the Service and Equipment, solely for the purposes of receiving and using such Service and Equipment. Any such license rights shall automatically terminate immediately upon the termination or expiration of this Agreement. In no event shall Customer (a) rent, lease, or loan the Intellectual Property; (b) electronically transmit the Intellectual Property over a network except as necessary for Customer's licensed use of the Intellectual Property; (c) use run-time versions of third-party products embedded in the Intellectual Property, if any, for any use other than the intended use of the Intellectual Property; (d) modify, disassemble, decompile, or reverse engineer the Intellectual Property; (e) transfer possession of any copy of the Intellectual Property to another party, except as expressly permitted herein; (f) make any copies of the Intellectual Property, except for one (1) copy for archival purposes, subject to the terms of an applicable end-user license agreement; or (g) use the Intellectual Property in any way not expressly provided for in this Agreement. There are no implied licenses and Customer agrees not to exceed the scope of the written licenses granted.

b) Without limiting the generality of the foregoing, nothing contained in this Agreement shall be deemed to confer upon Customer any right to use in advertising, publicity, marketing activities or otherwise any name, trademark, service mark or other designation of Company or its affiliates, including any contraction, abbreviation or simulation of any of the foregoing, without the prior written consent of Company.

31) **CONSTRUCTION.** This Agreement is to be construed fairly in accordance with its terms. In no event shall this Agreement be interpreted strictly against either party by reason of any rule of construction holding that contractual provisions are to be construed against the party drafting the same. Section headings in this Agreement are for convenience of reference only, and shall not affect the interpretation of any provision hereof. Unless context clearly requires otherwise, the singular of any term shall include the plural and vice versa, and terms of either gender shall include the other or the neuter.

32) **REMEDIES CUMULATIVE.** All remedies under this Agreement, at law or in equity, or otherwise afforded to Company, shall be cumulative and not alternative.

33) **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be deemed an original and both of which shall be deemed one and the same agreement.

34) This vendor/contractor/subcontractor shall abide by the requirements of 41 CFR §§ 60-14(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed by a person with full power and authority to bind such party on the day and year first written above.

Spok, Inc.
(Company)

By: [Signature]
Name: Michelle Wolfe
Title: Director, Contract/RFP Administration
Date: 6/9/16

Natividad Medical Center

(Customer)

By: [Signature] for Gary R. Gray
Name: Kristen Aldrich
Title: Deputy Purchasing Agent
Date: 6-30-16

[Signature]
AB veretan
Dep. County Counsel
6-10-16

Reviewed as to fiscal provisions
[Signature] 6/10/16
Auditor-Controller
County of Monterey

Spok, Inc. Processing Information Only

Account Number: 3264045
Group ID: 1957

SCOPE OF SERVICES AND PRICING**Monthly Service Rates**

Service Type (Pager types)	Usage	Price
Numeric device & group capcode	Pooled at 500 calls per device /0.25	\$4.95
Alphanumeric device / group capcode / ReadyCall		\$6.95
Spok Mobile Stand-alone & with one way device		\$7.95
2way Nationwide	25,000char/0.0007	\$20.90

Extended Coverage Options			Extended Usage Options	
Additional Coverage (One-way)			Additional Usage (One-way)	
Statewide (CA/FL/NY/OH/PA/TX)	\$1.00		1000 msgs/0.25	\$ 0.99 per device
Two States	\$1.00		3000 msgs/0.25	\$ 1.99 per device
Three States	\$1.00		5000 msgs/0.25	\$ 2.99 per device
Four States	\$4.50		Pooling	Included / one way only
Regional	\$9.00			
Nationwide	\$17.00			
*Above listed prices are in addition to base rates Most of NMC uses this billing scheme as it allows forwarding of pages to cell phones.			Additional Usage (Two-way)	
			75,000 char/0.0006	\$ 7.00
			250,000 char/0.0005	\$ 12.00
			*Above listed prices are in addition to base rates	
Features			Price (in addition to base rate)	
Personal 800#			\$4.00	
Additional Phone #			\$1.00	
CellText (SMS)			\$4.95	
MyAlias (Vanity – john.doe@usamobility.net)			\$4.95	
Voicemail and Prompts			MP1-\$4.00 MP2-\$3.00 MP4-\$2.00 VPP-\$1.00	
Operator Dispatch (30 messages incl / .50 per msg >30)			\$7.50	
Message Carbon Copy (MCC)			\$4.95	
Message Forward (MFC)			\$2.00	
MultiMessenger Group Leader (WME Group)			\$15.95 1-20 members \$18.95 21-40 members \$22.95 41-60 members \$25.95 61-99 members	
Spare Devices – 3% 1way devices at no charge – per billable account			Price for additional devices	
Numeric			\$2.00	
Alphanumeric			\$4.00	
2way			\$10.00 per device	
Type	Protection	Equipment charge W/Protection	Equipment charge W/out Protection or Purchase	
Numeric	\$1.00	\$10.00	\$39.00	
Alphanumeric	\$2.00	\$20.00	\$69.00	
2way	\$3.00	\$99.00	\$149.00	
ReadyCall	\$2.00	\$20.00	\$69.00	
ReadyCall Charger	N/A	N/A	\$49.00	
Notify@Once				
\$2.00 Receive or Send only		\$4.00 Receive and Send		\$10.00 Administrator
Fees/Surcharges			Price	
Shipping – free ground shipping			Market Rate, subject to change	
Late Fee			Exempt	
Administrative Fee			\$3.00 – per billable account	
Salinas Utility Tax			Exempt	
Universal Service Fund			2.148% - subject to change quarterly	
Regulatory Administrative Cost			\$0.25 per device	

COMPANY OPERATING PROCEDURES

I. SERVICE/BILLING REQUESTS

All requests (i.e., service on existing units, adding units, disconnecting units, billing, etc.) must be communicated directly to the CUSTOMER SERVICE CENTER or performed by utilizing MyAccount, the web based account management system. Service requests pertaining to issues with devices, such as missed pages or billing questions do not incur fees.

II. DISCONNECTS

All returned Equipment requires a thirty (30) day disconnect notice. Please provide Company with this written thirty (30) day notice, indicating the following:

- device telephone number
- capcode
- requested disconnect date
- reason for return

Devices will be billed through the end of the current billing cycle.

III. MESSAGE LENGTHS

Messages sent via local modem or paging number from a phone:

- 240 character length, message is truncated at 240 characters, each message is billed as one message

Messages sent via email, website or operator dispatch:

- 80 character length, message is not truncated at the 80 character length
- A single message may be billed as multiple calls

IV. POOLING OF USAGE PLANS

Usage plans may be pooled based on the following:

- Pooling is by billable account, service type and usage plan

Example: Account with 100 numeric on 500 message plan, 200 Alpha on 500-message plan and 100 alphas on 1,000-message plan. The numeric devices will share 50,000 messages, the alpha users on the 500-message plan will share 100,000 messages, and the alphas on the 1,000-message plan will share 100,000 messages

V. SHIPPING/MAILING ADDRESSES

Disconnected/replaced Equipment should be shipped to the following address:

Spök, Inc.
Attn: Distribution Center
3000 Technology Drive
Suite 400
Plano, Texas 75074

ACCEPTABLE USE POLICY



ACCEPTABLE USE POLICY & AGREEMENTS

Spok, Inc. and its operating subsidiaries ("Spok") have published this Acceptable Use Policy ("Policy") in an effort to provide high quality, reliable service; protect the privacy and security of its customers, systems, and networks; encourage responsible use of Spok's resources; and comply with applicable laws.

This Policy applies to all Spok customers, users of software, communication systems and paging services ("Services") offered by Spok, and those who access Spok's communication networks ("Networks"), hereinafter referred to as "you." Services include but are not limited to one-way and two-way paging, text messaging, mobile communications, mass notification, public safety communications and software services. This Policy governs when and under what circumstances Spok may suspend or terminate your use of the Services and access to Spok's Networks. By using our Services or accessing our Networks, you consent to the acceptable use practices described in this Policy, as modified from time to time by us.

This Policy supplements, but does not supersede, the contract that customers have with Spok or one of its operating subsidiaries; if such a contract restricts a use of the Networks that is not addressed in this Policy, the contract will govern with respect to such use. Spok users and subscribers may use the Services only in a manner consistent with all applicable local, state and federal laws and regulations, and in accordance with their customer contract and the acceptable use practices set forth below.

WARRANTY DISCLAIMER

Some services are not secure methods of communication, and Company cannot and does not guarantee against improper actions of third parties that interfere with the privacy of messages or the integrity of the Services.

ILLEGAL USE

Spok's Networks may not be used to transmit any material that violates any applicable local, state, national, or international law, or any rules or regulations promulgated there under. A subscriber may not, through action or inaction, allow others to use the Networks in a manner that violates law or any applicable rules or regulations. Such violations may result in criminal and civil liability. Spok may investigate incidents involving such violations and may involve and/or cooperate with law enforcement if a criminal violation is suspected.

NETWORKS USE

Spok's Networks may not be used for any activity that adversely affects the ability of other people or systems to use the Networks. Such prohibited activities include, but are not limited to, the following acts and practices: Excessive Messaging Sending multiple messages in a short time period and excessive overall messaging can interfere or overload the Networks. Spok reserves the right to take action against any user that uses the networks excessively with utilization charges and or termination of service. Use in excess of the following thresholds is a violation of this Policy (including for service plans that allow for an unlimited number of messages or characters ("Unlimited Use Plans"))



INPUT PROTOCOL	MAXIMUM MESSGES ALLOWED PER TIME FRAME	TIME FRAME (IN SECONDS)	MAXIMUM MESSAGES PER DAY
SMTP	15	300	1000
WCTP	15	300	1000
HTML	10	180	1000
TAP	30	300	3000
SNPP	15	300	1000

AUTO-APPEND MESSAGE CONTENT

Auto-Appended Disclaimers and Notices. Disclaimers, confidentiality and other notices that are automatically added to the text of messages sent via the Spok networks can interfere with the use of the networks.

PAGING UNLIMITED USE PLANS AND EXCESSIVE USE OF NETWORKS

Unlimited Use Plans are defined as a plan with a maximum of 5,000 one-way messages per month and 250,000 two-way characters per month. Messages over the 5,000 maximum will be billed at a rate of \$0.25 per message and characters in excess of 250,000 will be billed at a rate of \$0.0005 per character.

PROHIBITED MESSAGING

Unless otherwise expressly agreed to by Spok in writing, messaging services, including those under Paging Unlimited Use Plans cannot be used for:

- Uploading, downloading or streaming of movies, music or games.
- With server devices or with hosted computer applications, including but not limited to, automatic data feeds, automated machine-to-machine connections, machine generated messages, or peer-to-peer (P2P) file sharing.
- As a substitute or backup for dedicated data connections

"DENIAL OF SERVICE"

Denial of Service (DoS) attacks against Spok, another network host, or an individual user.

INTENTIONAL INTERFERENCE

Intentional interference with or disruption of other network users, network hosts, or network equipment, including, without limitation, flooding techniques, deliberate attempts to overload a system, or broadcast attacks.

INTERCEPTION AND UNAUTHORIZED MONITORING

Interception or unauthorized monitoring of any data or traffic on any network or system without the express authorization of Spok.



MODIFICATION OF TRANSMISSION

The installation of amplifiers, enhancers, repeaters, or other devices that modify, disrupt, or interfere in any way with the radio frequencies licensed to Spok to provide the Services is prohibited.

UNAUTHORIZED ACCESS

Spok's Networks may not be used to access, or to attempt to access, the accounts of others, or to penetrate, or attempt to penetrate, security measures of Spok or another entity's computer software or hardware, electronic communications system, or telecommunications system, whether or not the intrusion results in the corruption or loss of data.

COLLECTION OF PERSONAL DATA

Using the Networks to collect, or attempt to collect, personal information about third parties (including e-mail addresses) without their knowledge or consent is prohibited.

RESELLING SERVICES

Reselling the Services (including under Unlimited Use Plans) without Spok's authorization is prohibited.

CONTENT HARMFUL OR OFFENSIVE TO OTHERS

Spok's Networks may not be used to transmit any material that is unlawful, libelous, defamatory, slanderous, obscene, pornographic, indecent, lewd, harassing, threatening, harmful, and invasive of privacy or publicity rights, abusive, inflammatory, or otherwise harmful or offensive to others. Using the Networks to harm, or attempt to harm minors in any way is prohibited. Spok's Networks may not be used to transmit materials of a threatening nature, including death threats or threats of physical harm. Material that threatens or encourages destruction of property is expressly prohibited.

UNSOLICITED COMMERCIAL MESSAGES/UNSOLICITED BULK MESSAGES

Using the Networks to transmit any unsolicited commercial message or unsolicited bulk messages is prohibited. Activities that have the effect of facilitating unsolicited commercial messages or unsolicited bulk messages are prohibited. As used in this paragraph, an "unsolicited commercial message" means any electronic mail or text message that promotes a commercial product or service and is sent without the express prior authorization of the recipient. Messages that have the primary purpose of facilitating, completing, confirming, providing, or requesting information about a commercial transaction that the recipient previously agreed to enter into with the sender is not an "unsolicited commercial message." Spok has registered its wireless domain names (including usamobility.net, archwireless.net and my2way.com) with the Federal Communications Commission's ("FCC") wireless domain name registry. The transmission of mobile service commercial messages to such domains without the express prior authorization of the subscriber is prohibited under federal law and this Policy.



DECEPTIVE CONTENT

Spok's Networks may not be used to transmit deceptive or misleading content, such as letters relating to pyramid schemes, or communications offering or disseminating fraudulent goods, services, schemes, or promotion.

COPYRIGHT, TRADEMARK, AND PATENT INFRINGEMENT

Using the Networks to transmit any material that is protected by copyright, trademark, patent, trade secret, or other intellectual property rights of any third party, unless the sender has received all necessary consents to do the same, is prohibited.

DECEPTIVE AND MISLEADING USERNAMES/HEADERS

Adding, removing, or modifying identifying Networks header information in an effort to deceive or mislead is prohibited. Attempting to impersonate any person by using forged headers or other identifying information is prohibited..

RESPONSIBILITY FOR CONTENT

Spok takes no responsibility and assumes no liability for any content uploaded, transmitted, or downloaded by you or any third party, or for any mistakes, defamation, slander, libel, omission, falsehoods, obscenity, pornography, or profanity you may encounter. You agree to indemnify and hold Spok harmless from any claim, action, demand, loss, or damage (including attorneys' fees) made or incurred by any third party arising out of or relating to your violation of this Policy.

ACCESS TO TRANSACTIONAL INFORMATION AND CONTENT

Spok may access, use, and disclose transaction information about your use of our Services, and any content transmitted to or by you via the Services or through the Services, to the extent permitted by law, in order to comply with the law (e.g., if necessary to respond to civil or criminal subpoenas); to enforce or apply our customer agreements; to initiate, render, bill and collect for our Services; to protect our rights or property; or to protect users of our Services from fraudulent, abusive, or unlawful use of, or subscription to, our Services. For certain health care industry customers of Spok, Spok may access, use or disclose protected health information subject to the Health Insurance Portability and Accountability Act ("HIPAA"). In such instances, Spok complies with applicable privacy and security obligations as a "business associate" under HIPAA.

If your customer agreement with Spok provides that Spok may disclose to you records or other information, such as historical message content, log files, database records, etc., or if Spok otherwise discloses such information to you upon your request and consent, you agree to indemnify and hold Spok harmless from any claim, action, demand, loss, or damage (including attorneys' fees) made or incurred by any third party arising out of or relating to such disclosure. To the extent that you, as a customer of Spok, request such transactional information and content from Spok, you warrant to Spok that you have notified your employees or other users of the Service for whom you have subscribed that their information may be monitored, recorded, transcribed, and disclosed without their prior knowledge or consent, and that these users understand that they will not have any legal rights or remedies against Spok with respect to such actions taken at your request.



ENFORCEMENT

Spok, in its sole discretion, may take any one or more of the following actions in response to violations of this Policy: Issue written or verbal warnings, suspend the Services, terminate the Services, bill the customer for administrative costs and/or reactivation charges, block Networks input from a violating source or to a destination, bring legal action to enjoin violations and/or to collect damages, if any, caused by violations. Indirect or attempted violations of this policy or any related policy, guideline, or agreement. Actual or attempted violations by a third party on your behalf shall be considered violations of this policy by you.

The failure of Spok to enforce this Policy, for whatever reason, shall not be construed as a waiver of any right to do so at any time. If any portion of this Policy is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions will remain in full force and effect.

CHANGES TO THIS POLICY

Spok reserves the right to make changes to this Policy at any time if our practices change, as technology changes, or as we add new Services or change existing ones. You should refer back to this page periodically for the latest information.

PRIVACY POLICY



I. YOUR CONTENT

By using our website at www.spok.com (together with the content, interfaces and functions available at www.spok.com, the "Website"), you signify that you agree to the terms of this Privacy Policy..

II. SUMMARY OF OUR SERVICES AND SITE

Spok, Inc., formerly known as Amcom Software, Inc., and USA Mobility Wireless, Inc. ("we," "us" or "our") connects people to each other and to the data they need. Through the Website, our clients can learn about Spok's software, hardware and other products that enable seamless, critical communications across platforms and devices. In addition to reading about our products, visitors to the Website can contact us to learn more about mission-critical communications, chat live with a solutions advisor and request demos of our services.

As with any service, you should be mindful of your privacy and security when communicating via our Website.

You should also read our Terms of Use, which contain important information about your access to and use of the Website.

III. WHAT DO WE COLLECT ON THE WEBSITE

USER PROVIDED PUBLIC CONTENT

Website users may be able to post publicly available content ("Public Content") to certain areas of the Website, such as the Spok Blog. This content is meant for public consumption and we may collect and display it on the Website.

INFORMATION YOU PROVIDE IN FORMS YOU COMPLETE, I.E., TO COMMUNICATE YOUR INTEREST IN LEARNING MORE ABOUT OUR PRODUCTS AND SERVICES

We collect and store the information you provide about yourself when completing and submitting any online forms where you are invited to request additional information about our products and services or register for additional interactive services ("Online Form Data"). These forms typically ask you to provide your first name, last name, a valid e-mail address, title, phone number, company and address, as well as any specific questions or comments you may have.

To register for interactive services such as the Partner Portal, eStore, My Account or Spok Directions User Group, you may be asked to provide additional information to create a user name and password.

"WEB ACCESS AND USAGE INFORMATION"

When you access or interact with our Website, we may automatically collect certain information and store it in log files.



This information includes internet protocol (IP) addresses, browser type, operating system and other general information about our visitors. We may use cookies, web beacons and other technologies which help us better understand user behavior by telling us which parts of our Website people have visited and therefore enable us to improve the usability, performance and effectiveness of our Website. When you visit our Website we may also collect so called 'click stream' data, such as domain names and page views. All of the aforementioned data in this section we refer to as "Web Access and Usage Information."

This information can be combined with the information you have generated and transmitted to or through us, which will enable us to analyze and better customize use of our Website.

CHILDREN

The Website is not intended to be used by children under the age of 13 and Spok does not knowingly collect personal information from children under 13. Our registered services are available only to individuals 18 or older. If we learn that we have collected the personal information of a child under 13, we will take steps to delete the information as soon as possible.

IV. HOW WE USE YOUR INFORMATION

All information that we obtain about you will be collected, stored, used and protected by us in accordance with this Privacy Policy.

- We may collect, store, use, transfer, and disclose Public Content and Web Access and Usage Information for any purpose.
- We will use your Online Form Data for all purposes necessary to communicate with you about your interest in our Website, products and services; to inform you about events; to invite you to participate in new initiatives or feature and product upgrades; to perform quality control activities; and to conduct R&D.
- We use third-party analytics services to help Spok understand how visitors engage with our Website. These analytics services allow us to analyze all types of data received from users and businesses to generate reports about aggregate user behavior on our Website and help us to measure and research its effectiveness. To learn more about these services visit: <http://www.google.com/intl/en/analytics/> or contact sales@spok.com.

V. ABILITY OF USER TO OPT-OUT

Should you later wish not to receive any e-mails related to the Online Form Data you submitted, you can ask to be removed from our mailing list by emailing us at sales@spok.com.

VI. HOW WE SHARE INFORMATION

- We do not sell, lease, rent or otherwise disclose or transfer your Online Form Data to any third party, including any of our business customers.
- Spok cooperates with government and law enforcement officials to enforce and comply with the law. We may therefore disclose your Online Form Data as listed above, if we have a good faith belief that it is reasonably necessary to (a) satisfy any applicable law, regulation, legal process or enforceable governmental request, (b) enforce our Terms of Use, including investigation of potential violations thereof,



(c) detect, prevent, or otherwise address fraud, security or technical issues, or (d) protect against harm to the rights, property or safety of Spok, its users or the public as required or permitted by law.

VII. RETENTION OF PERSONAL INFORMATION

Spok will retain your Online Form Data for the period necessary to fulfill the purposes outlined in this Privacy Policy unless a longer retention period is required or permitted by law.

VIII. THIRD-PARTY SITES AND SERVICES

PAYMENT INFORMATION

Website users may be able to make payments for various products or services via certain pages of the Website.

When using My Account to make payments:

- Your credit card information is secure while being transferred. Spok uses Secure Socket Layer (SSL) to safeguard your credit card information in transit. SSL encrypts your data so that none of your personal information can be read in transit. Spok's security certificate is provided by Verisign.
- We use AES128 (Data Encryption Standard) Key Encryption to store your credit card information in our database.

Other payments are processed by Volusion, a third-party payment processor. Credit/Debit card information collected by Volusion in order to process these payments will be governed by Volusion's Privacy Statement and any other relevant policies disclosed on the Volusion website.

In order to ensure that your credit card information is encrypted in transit:

Microsoft Internet Explorer — Verify that the lock in the lower right hand corner of your browser is in the closed position.

LIVE CHAT

Website users may chat online with a solution advisor via the Live Chat feature, which we have made available in conjunction with Olark Live Chat, a third-party provider. Information collected via the Live Chat feature will be governed by Olark's Privacy Policy and any other relevant policies on the Olark website.

THIRD PARTY SITES

In addition, the Website may contain links to other third-party websites, applications, and services. Information collected by third parties is governed by their privacy practices and this Privacy Policy will not apply. We encourage you to learn about the privacy practices of those third parties.

IX. NOTIFICATIONS IN THE EVENT OF A CHANGE IN THE PRIVACY POLICY

We may update this Privacy Policy to reflect changes to our information practices and we encourage you to review the Privacy Policy when visiting the Website. If we make any material changes, we will provide some indication on the main page of the Website. If we make material changes affecting our use or disclosure of personal information that we have previously collected, we will notify you by e-mail (sent to the e-mail address specified in your account) or by means of a notice on this Website prior to the change becoming effective. Those changes will go into effect spok.com



on the Revision Date shown in the revised Privacy Policy. Your continued access to and interaction with our Website constitutes your consent to be bound by the revised Privacy Policy.

X. SECURITY OF YOUR INFORMATION

Spok is very concerned about safeguarding the confidentiality of your information. We follow generally accepted industry standards to protect the Online Form Data submitted to us from unauthorized access, both during transmission and once we receive it. However, no data transmission over the Internet or other network can be guaranteed to be 100% secure. As a result, while we strive to protect information transmitted on or through our Website, we cannot and do not guarantee the security of any information you transmit on or through the Website, and you do so at your own risk.

XI. HOW TO CONTACT US

Questions about this Summary, our Privacy Statement, or about Spok's handling of your personal information may be emailed to complianceofficer@spok.com or sent to:

Privacy Administrator

Spok, Inc.

6850 Versar Center, Suite 420

Springfield, VA 22151

XII. SITE VISITORS FROM OUTSIDE OF THE UNITED STATES

The Website and the servers upon which the Website is hosted are located in the United States. Any personal data that users outside of the United States provide via the Website will be transferred to the United States, and by visiting the Website or submitting personal data, you authorize this transfer.

XIII. BUSINESS TRANSFERS

In the event of a business transition such as a merger, acquisition by another company, or sale of all or a portion of Spok's assets, Online Form Data may be among the assets transferred. **You acknowledge and consent that such transfers are permitted by this Privacy Policy, and that any acquirer of ours or that acquirer's assets may continue to receive, store, and process your information as set forth in this Privacy Policy.**