

PRTC DEVELOPER SERVICES MASTER INFRASTRUCTURE AND MARKETING AGREEMENT

This Agreement is made and entered into by and between **University of Puerto Rico – Mayagüez Campus**, (hereinafter referred to as “UPRM”), a non profit Higher Education Institution in Puerto Rico, whose address is PO Box 9000 Mayagüez, Puerto Rico 00681-9000, and **Puerto Rico Telephone Company, Inc.**, (hereinafter referred to as “PRTC”), a corporation organized and existing under the laws of the Commonwealth of Puerto Rico, whose address is PO Box 360998, San Juan, Puerto Rico 00936-0998 in contemplation of the following:

- A. The land area covered by this Agreement is described as that area known as University of Puerto Rico - Mayagüez, legally described in Exhibit "A" attached hereto, as it exists on the date of signing, and any additional land area or building(s) which are added to the described property subsequent to the date of signing. Such land area or building(s) shall be identified by attaching appropriate legal descriptions hereto. Paragraphs 7f-k which refers to a SmartCenter are not applicable under this agreement.
- B. Where the Master Agreement refers to SmartPark[®], it is PRTC's intent to place facilities, further defined to include cabling and accessories thereto, including without limitation, cross-connect facilities, splice joints, termination facilities, fiber optic nodes, remote switching equipment, and such underground vaults as necessary to house said equipment, within the common area of UPRM so as to be able to provide telecommunications services to the faculty and staff using advanced communications technology including, but not limited to, fiber optics. Such facilities may be located, as appropriate, within roadway rights of way, within tracts owned or controlled by UPRM, and within common or greenway areas. All such installations will be located underground, where practical, and all such facilities will not be placed without UPRM's prior written approval of location, and, to the extent that any such facilities or installations impact the exterior elevation, structure or building systems of any building constructed by UPRM, such installation or facilities shall also be subject to UPRM's prior written approval. Any PRTC facilities placed in easements granted by UPRM and duly registered at the corresponding Registry of the Property as part of this Agreement shall be for the sole exclusive use of PRTC. PRTC shall provide conduit occupancy agreements in accordance with the requirements set forth in 47 U.S.C. Section 224 of the 1934 ACT as amended by the Telecommunications Act of 1996, FCC CC Docket No. 96-98 and applicable State Law.
- C. In addition, it is PRTC's intent to place or use existing facilities, further defined to include cabling and accessories thereto, within the conduits, utility raceways, and service areas of buildings designated as SmartCenter, so as to be able to provide advanced telecommunications services to potential building. By definition, a SmartCenter[®] is located on the land area covered by this Agreement and is a specific building or buildings designed for multi-tenant occupancy. Within such designated building(s) it is PRTC's intent to install any necessary communications infrastructure throughout the building(s) raceways and conduit systems as required to be able to offer enhanced PRTC network services to customers.
- D. In order for PRTC to provide for such advanced telecommunications services, PRTC must be able to construct in accordance with plans and specifications as approved by UPRM, which will not be unreasonably withheld, necessary conduits, cables and other tangible personal property (Facilities) within the confines of the public and private property known as UPRM.
- E. It is beneficial for the parties to promote the advanced technological status of UPRM.

Therefore, it is agreed:

1. The recitals hereinabove set forth are hereby incorporated by reference.
2. PRTC at its sole cost and expense will furnish, install and maintain Facilities as defined above in order to be able to provide to UPRM's faculty and staff advanced telecommunications services subject to requirements of Federal and state law. The design, capacity, and technology of the Facilities shall be exclusively determined by PRTC. PRTC will provide to UPRM a final design and PRTC shall coordinate all work with UPRM and UPRM's contractor prior to installation and maintenance of the Facilities. In no event shall PRTC or its contractors interfere with or hinder UPRM or UPRM's contractor in connection with the construction of the building of any infrastructure improvements related thereto.

As a SmartPark[®], UPRM and its successors will permit PRTC's personnel and agents reasonable access to the areas of UPRM, which are subject to this Agreement at all reasonable times over property owned by UPRM and shall grant to PRTC satisfactory recordable easements without charge over property owned by UPRM in order that PRTC may construct, install and maintain its Facilities, provided however, and it is expressly understood, that PRTC shall repair or replace any damage to UPRM's tangible property including, but not limited to, pavement or landscaping including damaged turf areas, caused by or in any way arising out of the activities of PRTC's employees, contractors, personnel, or agents. Such tangible property shall be repaired or replaced by PRTC to its original condition utilizing methods acceptable to UPRM and to PRTC. UPRM will have a prior right of reasonable approval over the location of such easement, landscaping and other improvement of the easement property. In connection with such construction, installation and maintenance, PRTC will indemnify and hold UPRM harmless from any claims, demands, liabilities, damages, costs or expenses (including without limiting the generality of the foregoing, all attorneys' fees), arising out of or related to any negligence or willful act of PRTC, its contractors, agents or employees. Likewise, UPRM agrees to indemnify PRTC from any and all claims, demands, damages, (without limiting the generality of the foregoing), to PRTC's Facilities arising out of or related to any negligence or willful act of UPRM, its contractors, agents or employees. PRTC agrees to indemnify and hold harmless UPRM from all claims and damages, demands, liabilities, costs or expenses arising out of UPRM's utilization of the Registered Servicemark SmartPark[®] Telecommunications Services or Registered Servicemark SmartCenter[®], including assuming the defense of claims made against UPRM. In the event PRTC finds it necessary to cross the private property of UPRM's faculty and staff in order to efficiently provide service, UPRM agrees to use its offices as reasonably appropriate with faculty and staff to help PRTC secure any necessary easements or other types of access permissions for PRTC Facilities, at no cost to PRTC, provided, however, in no event shall UPRM be required to expend any funds to procure such easements or access permission on behalf of PRTC.

3. Within all SmartParks, all facilities to be installed and maintained by PRTC hereunder shall be underground where practical and PRTC will use its best efforts to keep all Facilities underground, or in interior "non-public" and "non-tenant occupied" space of any building owned by UPRM which is subject to this Agreement and the location of such Facilities shall be subject to UPRM's approval, and, if any such Facilities affect the exterior elevation, building systems or structural elements of any such building, such Facilities shall also be subject to the prior written approval of UPRM.

4. PRTC will place and/or install and maintain its Facilities at its sole expense, except that this limitation shall not be construed as a restriction on PRTC's ability to pass on such costs, in accordance with all Federal, state and local codes and regulations applicable. In the event a faculty member or staff shall require a particular service and it is necessary for PRTC to use the private property of UPRM for PRTC Facilities, UPRM agrees to grant PRTC an easement, constituted in a Public Instrument to be recorded at the corresponding Registry of the Property, pursuant to the terms and conditions stipulated by the parties, except that UPRM shall have no responsibility whatsoever for acquiring any necessary or appropriate approvals or consents in the event any such easement shall cross or interfere with the easements of other utilities or public rights-of-way, and acquiring said approvals or consents shall be PRTC's sole responsibility and at PRTC's sole expense. UPRM will have a prior right of reasonable approval over the location of such easement, and the design and construction of installations, landscaping and other improvement of the easement property. The architectural style of any Facilities placed within a SmartPark® shall be subject to UPRM's review and approval by the corresponding governmental and Regulatory entities of the Commonwealth of Puerto Rico for the project known as UPRM.
5. UPRM shall provide at minimum four, four (4) inch entrance conduits (two each located at diverse ends of any building constructed by UPRM in the Campus dedicated to the exclusive use of PRTC for purposes of provisioning diverse entrance and exit facilities to the right of way for network communications services. PRTC may advise UPRM to place additional conduit on a case by case basis. This requirement is for buildings which are: i) in existence and have four such entrance conduits available, or ii) to be or are under construction. Cost of such entrance conduits shall be the responsibility of UPRM.
6. PRTC will undertake its construction activities coincidentally with any infrastructure construction undertaken by UPRM. PRTC shall exercise reasonable diligence to complete the necessary construction activities in a timely manner. In the event there shall be a delay due to any cause, PRTC shall notify UPRM immediately of any such delay that will exceed 30 days.
7. In order for the parties to be able to promote the technological and other advantages of having retail/corporate park space within UPRM, the parties further agree as follows:

IN REGARDS TO SMARTPARK® TELECOMMUNICATIONS SERVICES:

a. UPRM shall be authorized to use the PRTC Registered Servicemark SmartPark® for corporate park activity in its advertising and promotional activities provided that PRTC shall have the opportunity to review the use of the Registered Trademark as required by PRTC Corporate practices. PRTC will have ten (10) working days from receipt of proposed materials within which to respond thereto, or the materials will be deemed approved. In the event that PRTC shall find the use of the PRTC Registered Trademark objectionable in its reasonable discretion, UPRM shall revise its advertising and promotional activities so as to remove the basis for the objection.

b. The term "SmartPark® Advanced Telecommunications Service" (or other nomenclature acceptable to PRTC) utilizing the **PRTC logo shall be included in permanent, identifying signage at or near entrances to UPRM, and to temporary signage placed after completion of this agreement, during the continued term of this Agreement.** The design and location of all such signage shall be jointly agreed to by the parties involved.

PRTC shall have the right to review the use of the Registered Trademark and the logo as provided in Subparagraph (a). UPRM shall be responsible for all reasonable costs associated with SmartPark® Telecommunications Service signage.

c. PRTC will establish an advertising program having local, regional and national elements, which may be funded individually or jointly by participating PRTC business units and developers as specified in a separate agreement. **With regard to any cooperative advertising program established, whereby costs**

are to be shared between the parties, UPRM will be permitted to participate on terms no less favorable than those offered to any other developers within the program. UPRM shall, within its sole discretion, determine whether to participate in said advertising program.

d. UPRM agrees to make available PRTC's promotional materials concerning SmartPark® facilities to faculty and staff. PRTC will be solely responsible for the preparation, cost and continued supply to UPRM of its own promotional materials to be included within UPRM's materials. Likewise, PRTC agrees to include the names and contact telephone numbers for all participating properties, in any materials that PRTC will be furnishing in response to general inquiries concerning SmartPark® facilities.

e. As lease proposals are executed with prospective faculty and staff for SmartPark® facilities, UPRM will use reasonable effort to provide, as appropriate, to the tenant the name and telephone number of PRTC's designated sales representative. Coincidentally, UPRM will use its reasonable efforts, as appropriate, to ask the prospective tenant's approval to provide PRTC's designated sales representative the name, address, telephone number and contact person of said tenant. Any such information furnished to PRTC shall be furnished on a strictly confidential basis and PRTC agrees to hold such information in confidence, and not divulge any of such information to any third party, or to utilize such information for any purpose other than that as set forth in this paragraph, and PRTC shall be solely responsible for and shall indemnify UPRM from and against any and all claims, demands, damages, liabilities and other costs (including, but not limited to all attorneys' fees) suffered by UPRM arising out of or related to the provision of said information by UPRM to PRTC. In the event a prospective tenant declines to have such information provided to PRTC at the time of lease or sale proposal, UPRM agrees to use reasonable efforts to provide said information to PRTC promptly after final execution of the lease or sale, provided that UPRM's tenant agrees to such disclosure. The UPRM will make reasonable efforts to keep the assigned PRTC Representative updated, no less than monthly, with regard to activities associated with UPRM, including but not limited to, available square footage and tenant activity.

IN REGARDS TO SMARTCENTER® TELECOMMUNICATIONS SERVICES:

f. UPRM shall be authorized to use the PRTC Registered Servicemark SmartCenter® for any such designated buildings in its advertising and promotional activities provided that PRTC shall have the opportunity to review the use of the Registered Trademark as required by PRTC Corporate practices. PRTC will have ten (10) working days from receipt of proposed materials within which to respond thereto, or the materials will be deemed approved. In the event that PRTC shall find the use of the PRTC Registered Trademark objectionable, UPRM shall revise its advertising and promotional activities so as to remove the basis for the objection.

g. **A SmartCenter® designation plaque, to be provided by PRTC, shall be prominently displayed in the sales and leasing office main conference room or closing room of each designated SmartCenter® building, where such room exists, as appropriate. Additional signage plaques may be placed in the lobby or other appropriate area of each designated building by mutual consent of the SmartCenter® developer and PRTC. The location of all such signage shall be jointly agreed to by the parties involved. Cost and design of SmartCenter® plaques shall be the responsibility of PRTC. Construction and/or placement of exterior signage associated with the SmartCenter® building shall be the responsibility of the UPRM.**

h. PRTC may establish an advertising program for SmartCenter® buildings, as appropriate. Such a program may have local, regional and national elements, which may be funded individually or jointly by participating PRTC business units and developers as specified in a separate agreement. With regard to any cooperative advertising program established, whereby costs are to be shared between the parties, UPRM will be permitted to participate on terms no less favorable than those offered to any other developers within the program. UPRM shall, within its sole discretion, determine whether to participate in said advertising program.

i. With regard to any building(s) designated as a SmartCenter®, UPRM shall provide a minimum of two, four (4) inch riser ducts, dedicated to the exclusive use of PRTC, in all buildings over two stories in height that are: i) in existence, or ii) to be or are under construction and are contiguous to the land area and buildings stated in (a). Cost of such risers shall be the responsibility of the building's owner.

j. UPRM agrees to make available PRTC's promotional materials concerning SmartCenter® Telecommunications Services. PRTC will be solely responsible for the preparation, cost and continued supply to UPRM of its own promotional materials to be included within UPRM's materials. Likewise PRTC agrees to include the names and contact telephone numbers for all participating properties in any materials that PRTC will be furnishing in response to general inquiries concerning SmartCenter® facilities.

k. As lease proposals are executed with prospective faculty/staff for SmartCenter® facilities, UPRM will use reasonable effort to provide, as appropriate, to the tenant the name and telephone number of PRTC's designated sales representative. Coincidentally, UPRM will use its reasonable efforts, as appropriate, to ask the prospective tenant's approval to provide PRTC's designated sales representative the name, address, telephone number and contact person of said tenant. Any such information furnished to PRTC shall be furnished on a strictly confidential basis and PRTC agrees to hold such information in confidence, and not divulge any of such information to any third party, or to utilize such information for any purpose other than that as set forth in this paragraph, and PRTC shall be solely responsible for and shall indemnify UPRM from and against any and all claims, demands, damages, liabilities and other costs (including, but not limited to all attorneys' fees) suffered by UPRM arising out of or related to the provision of said information by UPRM to PRTC. In the event a prospective tenant declines to have such information provided to PRTC at the time of lease or sale proposal, UPRM agrees to use reasonable efforts to provide said information to PRTC promptly after final execution of the lease or sale, provided that UPRM's tenant agrees to such disclosure. The UPRM will make reasonable efforts to keep the assigned PRTC Representative updated, no less than monthly, with regard to activities associated with UPRM, including but not limited to, available square footage and faculty and staff activity.

8. **Inasmuch as close cooperation between the parties is a necessity in order for this effort to succeed, in the event either of the parties shall find that this venture is not satisfactory as determined by the sole discretion of each party, then either of the parties shall have the right to terminate this Agreement after five (5) years by giving ninety (90) days prior written notice from one to the others. Upon such termination, UPRM shall immediately cease using the PRTC Registered Servicemark SmartPark® and, if applicable, the PRTC Registered Servicemark SmartCenter®.**
9. In the event a building or group of buildings, subject to this Agreement, is sold, the terms of the agreement will transfer to the new owners.
10. This Agreement shall not be construed to create a joint venture, general partnership, or create the relationship of principal and agent between the parties thereto. It is strictly for the purpose of permitting reciprocal promotional/marketing activities and to provide for the installation of telecommunications services to faculty/staff and successor owners.
11. **Nothing in this Agreement shall be construed to obligate UPRM, or to require faculty/staff and/or purchasers to use PRTC services as described herein. Said faculty/staff and/or purchasers shall be free to use any service of their choice. However, UPRM shall, in good faith, recommend that their faculty and staff contact PRTC for the provisioning of telecommunications products and services. It is further agreed that UPRM shall not "bypass" PRTC for UPRM's own telecommunications services, unless PRTC is unable to provide comparable products and services at a competitive price and service level or fails to respond to user requests in a satisfactory manner.**

12. **During the term of this Agreement, UPRM agrees not to engage in, finance, promote or construct “bypass” facilities, or shared communications arrangements, provided by a third party without the express written consent of PRTC.**
13. Any notice required or permitted under this Agreement may be given by enclosing the same in a sealed envelope, postage prepaid, and depositing the same in the United States mail addressed to UPRM or PRTC at the addresses previously set forth in this Agreement.
14. Nothing contained herein shall be construed to convey or otherwise transfer title to the telecommunications facilities to be installed herein from PRTC to UPRM; PRTC is, and shall continue to be, the sole and exclusive owner of said Facilities.
15. ~~Nothing contained herein shall operate to require PRTC from adding the telecommunications facilities installed herein for other customers of PRTC or associated with UPRM.~~
16. Notwithstanding anything contained herein to the contrary PRTC acknowledges that UPRM has no right to bind or obligate any of its faculty/staff to the terms of this agreement. UPRM shall use good faith efforts to encourage its faculty/staff to cooperate with PRTC with respect to this agreement.
17. This agreement and the application or interpretation thereof shall be governed exclusively by its terms and pursuant to the laws of the Commonwealth of Puerto Rico. The parties hereto agree that any action related to this Contract shall be resolved solely in San Juan, Puerto Rico and the parties irrevocably submit to the jurisdiction of its courts.
18. This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter contained herein, and no amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing, dated subsequent to the date hereof and duly approved and executed by an authorized representative of each party.
19. All regulated services are provided in accordance with applicable laws, tariffs and regulations, and this Agreement shall at all times be construed to be consistent with those laws, tariffs and regulations. In the event this Agreement or any of the provisions herein, or the operations contemplated, are found by PRTC to be inconsistent with or contrary to any such law, tariff or regulation, that law, tariff or regulation shall be deemed to control and, if commercially practicable, this Agreement shall be regarded as modified accordingly, and shall continue in full force and effect as so modified. If such modified Agreement is not commercially practicable in the opinion of either Party in its sole discretion, the Parties agree to meet promptly and discuss any necessary amendments or modifications to this Agreement. If the parties are unable to agree on necessary amendments or modifications in order to comply with the law, tariff or regulation, then either Party may terminate this Agreement by giving ninety (90) days written notice to the other Party.

All written correspondence concerning the contents of this agreement shall be mailed as follows:

If to PRTC:

Antonia Colon
Project Manager – Business Alignment Program
Puerto Rico Telephone Company 9th Floor
P.O. Box 360998
San Juan, Puerto Rico 00936-0998

If to University of Puerto Rico- Mayagüez Campus:

Carlos Olivencia Vázquez
Director of Auxiliary Services

University of Puerto Rico- Mayagüez Campus
PO Box 3006
Mayagüez, Puerto Rico 00681-3006

IN WITNESS THEREOF, the parties have executed this Agreement as of the date set forth below.

University of Puerto Rico- Mayagüez Campus
A Puerto Rico Corporation

Puerto Rico Telephone Company
A Puerto Rico Corporation

By: _____

By: _____

Name: Dr. Zulma Toro Ramos

Name: Jon Slater

Title: Chancellor

Title: President and CEO

Dated

Dated