

MARCS RADIO USE AGREEMENT

This Use Agreement (“**Agreement**”), shall be between the **OHIO OFFICE OF INFORMATION TECHNOLOGY, MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM PROGRAM OFFICE (“MARCS”)**, having an office located at 2323 W. Fifth Avenue, Suite 150, Columbus, OH 43204-3560, and _____, having its principal place of business at _____ (the “**User**”).

WHEREAS, MARCS provides statewide radio coverage for police, fire and EMS services and other public agencies that are either first responders or contributes materially to homeland security.

WHEREAS, USER is public/private entity which provides first responder services to the public and materially contributes to homeland security.

WHEREAS, it is the intent that this Agreement solidify the responsibilities of both MARCS and USER.

IT IS THEREFORE MUTUALLY AGREED THAT:

SECTION 1: PURPOSE

MARCS hereby provides subscription service to a voice system based upon the individual or enterprise entity purchasing _____ compatible radios at a user fee of \$20.00 (Twenty and 00/100 Dollars) per month for portable and mobile voice radios(\$40.00 (Forty and 00/100 Dollars) per month for high tier control stations)).

SECTION 2: INITIAL TERM

This Agreement shall commence on the date the radio unit(s) are activated (i.e. programmed) (hereinafter referred to as “Activation Date”) and shall continue until June 30, 2009, unless renewed as set forth in Section 6 herein.

SECTION 3: ANNUAL FEE

User shall pay an annual fee to MARCS in the amount of _____ (\$_____) (“Fee”) per radio unit, for each fiscal year beginning July 1 through June 30, such fee shall be prorated for the period commencing on the Activation Date for each radio unit through June 30, 2008. User shall pay the prorated fee within 45 days after receipt of invoice from the Ohio Office of Information Technology, Multi-Agency Radio Communication System Program Office (MARCS), thereafter; the Fee shall be paid annually on July 1 or quarterly on the first day of the calendar quarter (i.e. January, April, July, and September).

If the Fee is not paid by User when due, MARCS holds the right to charge a late fee of 1.5% per month. The Fee paid by User shall be due without set-off notice or demand from MARCS.

Once invoiced, any Fee or other payment made by User shall contain a notation of the invoice number and shall be made payable to the Treasurer, State of Ohio MARCS 5C2 Fund. Payment should be mailed to:

Treasurer, State of Ohio (Fund 5C2)
Office of Information Technology
c/o Finance Office
30 East Broad Street, 40th Floor
Columbus, Ohio 43215-3414

SECTION 4: MARCS' RESPONSIBILITIES

- 4.1 Provide continuous (i.e. 24 hour, 7 days a week for 365 days per year) system availability from the tower and central equipment infrastructure.
- 4.2 Provide continuous access to live help via the network operations center 866-OH-MARCS to assist User if they are experiencing any technical or operational difficulties.
- 4.3 MARCS will work with User to develop talk group plans, including but not limited to User specific talk groups based on the User's mission and agents deployed and need for interoperability within their geographic location.

SECTION 5: USER'S RESPONSIBILITIES

- 5.1 Maintenance and repair of actual radios used for the subscription service is the sole responsibility of the User.
- 5.2 Use of radio is limited to public safety or responders.
- 5.3 All FCC rules and regulations shall be adhered to by User at all times, including breaks during long term transmissions.
- 5.4 At MARCS sole discretion, improper use of radio may result in the suspension or termination of this agreement with no refund of any fees paid.
- 5.5 User shall not sublet their service to any individual, agency or organization without prior written consent of the MARCS Program Office.
- 5.6 No use of profanity is permitted by User or its designated assigns.
- 5.7 User shall submit to MARCS their contact information and a list of the serial numbers for all radios utilizing the subscription services on the form set forth in Exhibit A, attached hereto and incorporated herein.
- 5.8 User shall notify MARCS if there is any change in their radio inventory, including but not limited to lost/stolen devices or additional devices activated utilizing the subscription service, .
- 5.9 User shall work with MARCS' voice radio services staff to develop the proper talk groups in order to forward the mission of the User, without negatively impacting the MARCS radio system.
- 5.10 User understands these talk groups will include the MARCS interoperability talk groups, as detailed in the attached MARCS Policy MPP-15.0 (Exhibit B, attached hereto and incorporated herein).
- 5.11 User shall be responsible for the proper use of each radio subscribed to MARCS. Proper FCC and MARCS' radio protocol shall be followed at all times (e.g., Utilization of radio codes to shorten transmissions, transmission breaks during lengthy traffic, deferral to emergency traffic, etc. Frequencies and bandwidth support MARCS is at a premium, use of the system is for legitimate criminal justice/public safety purposes only. Telephone should be utilized for other traffic).
- 5.12 User agrees that MARCS maintains the right to audit its list of radio users at any time.
- 5.13 Approval of additional radio unit activation shall include but not be limited to the outcome of grade of service (GOS) studies which shall be performed by the MARCS Program Office. The GOS is a way of assuring that the additional devices will not adversely affect current communications on the MARCS system. If it is determined by MARCS that the addition of channels and/or frequencies is necessary in order to accommodate the additional radio units MARCS, at its discretion but upon providing prior written notification to User, shall install at User's expense any additional equipment that MARCS deems necessary. User shall be responsible for all equipment and installation costs associated with the system infrastructure upgrade. User agrees that upon installation of any equipment on the system infrastructure, the equipment becomes the permanent property of MARCS and MARCS shall be responsible for maintenance of the equipment.

SECTION 6: RENEWAL TERMS, TERMINATION

The term of this Agreement shall be effective as of the last date of signing and shall continue until June 30, 2009 provided that User is not then in default of its obligations to pay the Fees reserved herein and the performance of and the covenants set forth herein. This Agreement shall automatically renew for an additional 24 months (the "Renewal Terms") at the end of the initial term and upon the same terms and conditions as are set forth herein, unless 90 days prior to the end of the term, User provides MARCS with written notification of their intent not to renew.

MARCS may terminate this Agreement with or without cause at anytime followed by written confirmation of such notice to the User.

SECTION 7: NOTICES

All notices and/or invoices given under this Agreement, except for emergency service requests, shall be made in writing. All notices shall be sent to the parties at the addresses set forth below:

**OFFICE OF INFORMATION TECHNOLOGY
MARCS
Attn: PROGRAM DIRECTOR
2323 W. Fifth Avenue, Ste. 150
Columbus, OH 43204**

**USER'S RESPONSIBLE PARTY CONTACT NAME,
ADDRESS, PHONE, FAX, E-MAIL**

Contact _____
Address _____
City, State, Zip _____
Phone _____
Fax _____
E-mail _____

SECTION 8: MISCELLANEOUS

- 8.1 This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This Agreement supersedes any and all previous agreements, whether written or oral, between the parties. A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.
- 8.2 This Agreement shall be governed, construed and interpreted in accordance with the laws of the State of Ohio.
- 8.3 The parties further agree that they are in compliance with the requirements of Ohio Revised Code Section 125.111.

The parties have signed below as evidence of their agreement.

MARCS Voice User Agreement

AGENCY NAME _____
Address _____
Address2 _____
City, State Zip _____
Phone _____

MARCS:
STATE OF OHIO
Office of Information Technology
Service Delivery Division
Multi-Agency Radio Communications System
2323 West Fifth Avenue, Suite 150
Columbus, Ohio 43204

SIGNATURE: _____

PRINTED NAME: Darryl L. Anderson

TITLE: MARCS Program Manager

DATE: _____