

AGREEMENT BETWEEN THE COUNTY OF TEHAMA AND DAY WIRELESS SYSTEMS

This agreement is entered into between the County of Tehama, through its Sheriff's Office, ("County") and Day Management Corporation DBA Day Wireless Systems ("Contractor") for the purpose of maintaining the radio communication equipment and infrastructure for the Tehama County Sheriff's Office.

1) RESPONSIBILITIES OF CONTRACTOR

During the term of this agreement, Contractor shall upon request by the Tehama County Sheriff's Office agree to provide reasonable maintenance of the Radio System, including periodic evaluation of the Radio System to assist in assuring efficient, safe operations of the Radio System. A description of included and excluded Radio System maintenance services, equipment by model and serial number is provided in Exhibit B.

Contractor shall go to the Inskip repeater site to view equipment and test annually and let the Sheriff's Office know the dates and coordinate with the Tehama County Communications Coordinator to test the equipment.

Contractor shall make such repairs, as are necessary, to correct any broken or malfunctioning hardware or portion thereof, with the intent of providing to the County, to the extent reasonable and possible, continuous operation of the Radio System. In the event the County requires emergency repair of the Radio System or any portion thereof, Contractor shall make its personnel available for such activity in accord with the terms hereof. Nothing contained herein shall be deemed to be Contractor's guarantee that it will take any specific or special actions to obtain or maintain an inventory of spare parts for the purpose of making repairs, provided however, Contractor agrees that any spare parts purchased by the County for the specific purposes of accommodating future repairs of the Radio System, will be stored by Contractor and reserved solely for the purposes of repairing the Radio System. Nothing contained herein shall be deemed to be any warranty given by Contractor that (i) Contractor will be able to determine the source of any outage of the Radio System; (ii) that absent the County's prior purchase of necessary spare parts, Contractor will have the spare parts necessary to make repairs to the Radio System; (iii) that Contractor will possess all knowledge and experience necessary to repair the Radio System; (iv) that such repairs will be completed within any particular time period; or (v)

that Contractor is able to predict any potential failure of the Radio System or any portion thereof. Contractor acknowledges the County's requirement for timely maintenance services, therefore, should Contractor not be able to perform any maintenance services described herein, Contractor shall so notify and inform the County. Within two (2) days following Contractor making such determination, Contractor shall reiterate its determination in writing to the County. Upon receipt of such notification and/or determination from Contractor (whether verbally or in writing), the County, at its own option, may cause a third party(ies) to perform those maintenance services which Contractor has determined are beyond its capacity.

2) RESPONSIBILITIES OF THE COUNTY

County shall compensate Contractor for said services pursuant to Section 3 and 4 of this agreement.

3) COMPENSATION

Contractor shall be paid in accordance with the rates set forth in the Fee Schedule, attached hereto as Exhibit B, after satisfactorily completing the duties described in this Agreement. The Maximum Compensation payable under this Agreement shall not exceed \$164,236.80.

Contractor shall not be entitled to payment or reimbursement for any tasks or services performed except as specified herein. Contractor shall have no claim against County for payment of any compensation or reimbursement, of any kind whatsoever, for any service provided by Contractor after the expiration or other termination of this Agreement. Contractor shall not be paid any amount in excess of the Maximum Compensation amount set forth above, and Contractor agrees that County has no obligation, whatsoever, to compensate or reimburse Contractor for any expenses, direct or indirect costs, expenditures, or charges of any nature by Contractor that exceed the Maximum Compensation amount set forth above. Should Contractor receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. This provision shall survive the expiration or other termination of this Agreement.

4) BILLING AND PAYMENT

On or before the 15th of each month, Contractor shall submit to County an itemized invoice for all services rendered during the preceding calendar month. County shall make payment of all undisputed amounts within 30 days of receipt of Contractor's invoice. County shall be obligated to pay only for services properly invoiced in accordance with this section.

5) TERM OF AGREEMENT

This agreement shall commence on August 1, 2025 and shall terminate July 31, 2030, unless terminated in accordance with section 6 below.

6) TERMINATION OF AGREEMENT

If Contractor fails to perform his/her duties to the satisfaction of the County, or if Contractor fails to fulfill in a timely and professional manner his/her obligations under this agreement, or if Contractor violates any of the terms or provisions of this agreement, then the County shall have the right to terminate this agreement effective immediately upon the County giving written notice thereof to the Contractor. Either party may terminate this agreement on 30 days' written notice. County shall pay Contractor for all work satisfactorily completed as of the date of notice. County may terminate this agreement immediately upon oral notice should funding cease or be materially decreased, or should the Tehama County Board of Supervisors fail to appropriate sufficient funds for this agreement in any fiscal year.

The County's right to terminate this agreement may be exercised by the Sheriff-Coroner.

7) ENTIRE AGREEMENT; MODIFICATION

This agreement for the services specified herein supersedes all previous agreements for these services and constitutes the entire understanding between the parties hereto. Contractor shall be entitled to no other benefits other than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Contractor specifically acknowledges that in entering into and executing this agreement, Contractor relies solely upon the provisions contained in this agreement and no other oral or written representation.

8) NONASSIGNMENT OF AGREEMENT

Inasmuch as this agreement is intended to secure the specialized services of Contractor, Contractor may not assign, transfer, delegate or sublet any interest herein without the prior written consent of the County.

9) EMPLOYMENT STATUS

Contractor shall, during the entire term of this agreement, be construed to be an independent contractor and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow County to exercise discretion or control over the professional manner in which Contractor performs the services which are the subject matter of this agreement; provided always, however, that the services to be provided by Contractor shall be provided in a manner consistent with the professional standards applicable to such services. The sole interest of the County is to insure that the services shall be rendered and performed in a competent, efficient and satisfactory manner. Contractor shall be fully responsible for payment of all taxes due to the State of California or the Federal government, which would be withheld from compensation of Contractor, if Contractor were a County employee. County shall not be liable for deductions for any amount for any purpose from Contractor's compensation. Contractor shall not be eligible for coverage under County's Workers Compensation Insurance Plan nor shall Contractor be eligible for any other County benefit.

10) INDEMNIFICATION

Contractor shall defend, hold harmless, and indemnify Tehama County, its elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees of County), damages, judgments, or decrees by reason of any person's or persons' injury, including death, or property (including property of County) being damaged, arising out of Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in this agreement, whether by negligence or otherwise. Contractor shall, at its own expense, defend any suit or action founded upon a claim of the foregoing. Contractor shall also defend and indemnify County against any adverse determination made by the Internal Revenue Service or the State Franchise Tax Board and/or any other taxing or regulatory agency against the County with respect to Contractor's "independent contractor" status that would establish a liability for failure to make social security or income tax withholding payments, or any other legally mandated payment.

11) INSURANCE

Contractor shall procure and maintain insurance pursuant to Exhibit A, "Insurance Requirements For Contractor," attached hereto and incorporated by reference.

12) PREVAILING WAGE

Contractor certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the Services hereunder are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with and to require its subcontractors to fully comply with such Prevailing Wage Laws, to the extent that such laws apply. If applicable, County will maintain the general prevailing rate of per diem wages and other information set forth in Labor Code section 1773 at its principal office, and will make this information available to any interested party upon request. Contractor shall defend, indemnify and hold the County, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any failure or alleged failure of the Contractor or its subcontractors to comply with the Prevailing Wage Laws. Without limiting the generality of the foregoing, Contractor specifically acknowledges that County has not affirmatively represented to contractor in writing, in the call for bids, or otherwise, that the work to be covered by the bid or contract was not a “public work.” To the fullest extent permitted by law, Contractor hereby specifically waives and agrees not to assert, in any manner, any past, present, or future claim for indemnification under Labor Code section 1781.

Contractor acknowledges the requirements of Labor Code sections 1725.5 and 1771.1 which provide that no contractor or subcontractor may be listed on a bid proposal or be awarded a contract for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5, with exceptions from this requirement specified under Labor Code sections 1725.5(f), 1771.1(a) and 1771.1(n).

If the services are being performed as part of the applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, Contractor acknowledges that this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

13) NON-DISCRIMINATION

Contractor shall not employ discriminatory practices in the treatment of persons in relation to the circumstances provided for herein, including assignment of accommodations, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

14) GREEN PROCUREMENT POLICY

Through Tehama County Resolution No. 2021-140, the County adopted the Recovered Organic Waste Product Procurement Policy (available upon request) to (1) protect and conserve natural resources, water and energy; (2) minimize the jurisdiction's contribution to pollution and solid waste disposal; (3) comply with state requirements as contained in 14 CCR Division 7, Chapter 12, Article 12 (SB 1383); (4) support recycling and waste reduction; and (5) promote the purchase of products made with recycled materials, in compliance with the California Integrated Waste Management Act of 1989 (AB 939) and SB1382 when product fitness and quality are equal and they are available at the same or lesser cost of non-recycled products. Contractor shall adhere to this policy as required therein and is otherwise encouraged to conform to this policy.

15) COMPLIANCE WITH LAWS AND REGULATIONS

All services to be performed by Contractor under to this Agreement shall be performed in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. Any change in status, licensure, or ability to perform activities, as set forth herein, must be reported to the County immediately.

16) LAW AND VENUE

This agreement shall be deemed to be made in, and shall be governed by and construed in accordance with the laws of the State of California (excepting any conflict of laws provisions which would serve to defeat application of California substantive law). Venue for any action arising from this agreement shall be in Tehama County, California.

17) AUTHORITY

Each party executing this Agreement and each person executing this Agreement in any representative capacity, hereby fully and completely warrants to all other parties that he or she has full and complete authority to bind the person or entity on whose behalf the signing party is purposing to act.

18) NOTICES

Any notice required to be given pursuant to the terms and provisions of this agreement shall be in writing and shall be sent first class mail to the following addresses:

NOTICES TO COUNTY:

Tehama County Sheriff's Office
Attn: Dave Kain, Sheriff-Coroner
P.O. BOX 729
Red Bluff, CA 96080
(530) 527-7900
dkain@tehamaso.org

INVOICES SUBMITTED TO COUNTY:

Tehama County Sheriff's Office
Attn: Nickoli Brummond
P.O. BOX 729
Red Bluff, CA 96080
(530) 528-8979 option 1
nbrummond@tehamaso.org

NOTICES TO CONTRACTOR:

Day Management Corp dba Day Wireless
Systems
6430 SE Lake Road
Milwaukie, OR 97222
(503) 659-1240
Contact: Calvin Emigh
cemigh@daywireless.com

GRANTS/CONTRACTS TO COUNTY:

Tehama County Sheriff's Office
Attn: Grants/Contracts
P.O. BOX 729
Red Bluff, CA 96080
(530) 528-8979 option 2
jcrane@tehamaso.org

Notice shall be deemed to be effective two days after mailing.

19) NON-EXCLUSIVE AGREEMENT:

Contractor understands that this is not an exclusive agreement, and that County shall have the right to negotiate with and enter into agreements with others providing the same or similar services to those provided by Contractor, or to perform such services with County's own forces, as County desires.

20) STANDARDS OF THE PROFESSION

Contractor agrees to perform its duties and responsibilities pursuant to the terms and conditions of this agreement in accordance with the standards of the profession for which Contractor has been properly licensed to practice.

21) LICENSING OR ACCREDITATION

Where applicable the Contractor shall maintain the appropriate license or accreditation through the life of this contract.

22) RESOLUTION OF AMBIGUITIES:

If an ambiguity exists in this Agreement, or in a specific provision hereof, neither the Agreement nor the provision shall be construed against the party who drafted the Agreement or provision.

23) NO THIRD PARTY BENEFICIARIES:

Neither party intends that any person shall have a cause of action against either of them as a third party beneficiary under this Agreement. The parties expressly acknowledge that is not their intent to create any rights or obligations in any third person or entity under this Agreement. The parties agree that this Agreement does not create, by implication or otherwise, any specific, direct or indirect obligation, duty, promise, benefit and/or special right to any person, other than the parties hereto, their successors and permitted assigns, and legal or equitable rights, remedy, or claim under or in respect to this Agreement or provisions herein.

24) HAZARDOUS MATERIALS

Contractor shall provide to County all Safety Data Sheets covering all Hazardous Materials to be furnished, used, applied, or stored by Contractor, or any of its Subcontractors, in connection with the services on County property. Contractor shall provide County with copies of any such Safety Data Sheets prior to entry to County property or with a document certifying that no Hazardous Materials will be brought onto County property by Contractor, or any of its Subcontractors, during the performance of the services. County shall provide Safety Data Sheets for any Hazardous Materials that Contractor may be exposed to while on County property.

25) HARASSMENT

Contractor agrees to make itself aware of and comply with the County's Harassment Policy, TCPR §8102: Harassment, which is available upon request. The County will not tolerate or condone harassment, discrimination, retaliation, or any other abusive behavior. Violations of this policy may cause termination of this agreement.

26) COUNTERPARTS, ELECTRONIC SIGNATURES – BINDING

This agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ((“CUETA”) Cal. Civil Code §§ 1633.1 to 1633.17), for executing this agreement. The Parties further agree that the electronic signatures of the Parties included in this agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among Parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of “electronic signature” as defined in subdivision (i) of Section 1633.2 of the Civil Code. Facsimile signatures or signatures transmitted via pdf document shall be treated as originals for all purposes.

27) EXHIBITS

Contractor shall comply with all provisions of Exhibits A through B, attached hereto and incorporated by reference. In the event of a conflict between the provisions of the main body of this Agreement and any attached Exhibit(s), the main body of the Agreement shall take precedence.

IN WITNESS WHEREOF, County and Contractor have executed this agreement on the day and year set forth below.

COUNTY OF TEHAMA

Date: _____

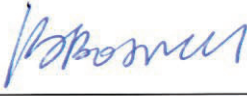
Sheriff-Coroner

Date: _____

Chairman, Board of Supervisors

**DAY MANAGEMENT CORP dba DAY
WIRELESS SYSTEMS**

Date: 7-24-2025



Authorized Agent

Agreement #: _____

T0027247

Vendor Number

2027-53170

Budget Account Number

MWeinberger@daywireless.com

Vendor/Contractor Email Address

(530) 440-9030

Vendor/Contractor Phone Number

Exhibit A

INSURANCE REQUIREMENTS FOR CONTRACTOR

Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work described herein and the results of that work by Contractor, his/her agents, representatives, employees or subcontractors. At a minimum, Contractor shall maintain the insurance coverage, limits of coverage and other insurance requirements as described below.

Commercial General Liability (including operations, products and completed operations) \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If coverage is subject to an aggregate limit, that aggregate limit will be twice the occurrence limit, or the general aggregate limit shall apply separately to this project/location.

Automobile Liability

Automobile liability insurance is required with minimum limits of \$1,000,000 per accident for bodily injury and property damage, including owned and non-owned and hired automobile coverage, as applicable to the scope of services defined under this agreement.

Workers' Compensation

If Contractor has employees, he/she shall obtain and maintain continuously Workers' Compensation insurance to cover Contractor and Contractor's employees and volunteers, as required by the State of California, as well as Employer's Liability insurance in the minimum amount of \$1,000,000 per accident for bodily injury or disease.

Professional Liability (Contractor/Professional services standard agreement only)

If Contractor is a state-licensed architect, engineer, contractor, counselor, attorney, accountant, medical provider, and/or other professional licensed by the State of California to practice a profession, Contractor shall provide and maintain in full force and effect while providing services pursuant to this contract a professional liability policy (also known as Errors and Omissions or Malpractice liability insurance) with single limits of liability not less than \$1,000,000 per claim and \$2,000,000 aggregate on a claims made basis. However, if

coverage is written on a claims made basis, the policy shall be endorsed to provide coverage for at least three years from termination of agreement.

If Contractor maintains higher limits than the minimums shown above, County shall be entitled to coverage for the higher limits maintained by Contractor.

All such insurance coverage, except professional liability insurance, shall be provided on an "occurrence" basis, rather than a "claims made" basis.

Endorsements: Additional Insureds

The Commercial General Liability and Automobile Liability policies shall include, or be endorsed to include "Tehama County, its elected officials, officers, employees and volunteers" as an additional insured.

The certificate holder shall be "County of Tehama."

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions of \$25,000 or more must be declared to, and approved by, the County. The deductible and/or self-insured retentions will not limit or apply to Contractor's liability to County and will be the sole responsibility of Contractor.

Primary Insurance Coverage

For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

Coverage Cancellation

Each insurance policy required herein shall be endorsed to state that "coverage shall not be reduced or canceled without 30 days' prior written notice certain to the County."

Acceptability of Insurers

Contractor's insurance shall be placed with an insurance carrier holding a current A.M. Best & Company's rating of not less than A:VII unless otherwise acceptable to the County. The County

reserves the right to require rating verification. Contractor shall ensure that the insurance carrier shall be authorized to transact business in the State of California.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance that meets all the requirements stated herein.

Material Breach

If for any reason, Contractor fails to maintain insurance coverage or to provide evidence of renewal, the same shall be deemed a material breach of contract. County, in its sole option, may terminate the contract and obtain damages from Contractor resulting from breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance.

Policy Obligations

Contractor's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Verification of Coverage

Contractor shall furnish County with original certificates and endorsements effecting coverage required herein. All certificates and endorsements shall be received and approved by the County prior to County signing the agreement and before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements.

The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

Exhibit B**MAINTENANCE AGREEMENT**

www.daywireless.com

| | | |
|--|-------------|--------------|
| FCC LICENSE TEHAMA COUNTY SHERIFF'S OFFICE | | |
| | | |
| | | |
| COMPANY NAME TEHAMA COUNTY SHERIFF'S OFFICE | | |
| ADDRESS 22840 ANTELOPE BLVD./P.O. BOX 729 | | |
| CITY RED BLUFF | STATE CA | ZIP 96080 |

| Company Number | | |
|--|-----------------------------|--------------------------------|
| <input checked="" type="checkbox"/> 03 | <input type="checkbox"/> 13 | <input type="checkbox"/> 18 |
| <input type="checkbox"/> 04 | <input type="checkbox"/> 15 | <input type="checkbox"/> 20 |
| <input type="checkbox"/> 11 | <input type="checkbox"/> 16 | <input type="checkbox"/> _____ |
| CUSTOMER NO. TBD | | SHOP NO. 2113 |
| AGREEMENT DATE 07/22/2025 | | CONTRACT NO. TBD |
| DATE MAINTENANCE BEGINS 08/1/2025 | | TAX NA |
| DATE MAINTENANCE ENDS 07/31/2030 | | STATE CA |
| NEGOTIATED BY MATT WEINBERGER | | COUNTY CODE |

| | | | | |
|--|---|--|--|--|
| <input checked="" type="checkbox"/> NEW | <input type="checkbox"/> SUPERSEDE | <input type="checkbox"/> ADD/UPDATE | <input type="checkbox"/> DELETE | <input type="checkbox"/> CANCEL |
|--|---|--|--|--|

| | | | | |
|-----------------------|--|---|---|--|
| BILLING PERIOD | <input checked="" type="checkbox"/> MONTHLY | <input type="checkbox"/> QUARTERLY | <input type="checkbox"/> SEMI ANNUAL | <input type="checkbox"/> ANNUAL |
|-----------------------|--|---|---|--|

| NO. UNITS | DESCRIPTION | TYPE | PLACE OF SERVICE | MONTHLY FEES | |
|-----------|---|------|------------------|--------------|------------------|
| | | | | PER UNIT | TOTAL |
| 2 | VHF REPEATERS; INSKIP | 266 | TEHAMA CO. | 200.19 | 400.38 |
| 2 | VHF REPEATERS/BASE STATIONS; JAIL/DISPATCH | 266 | | 200.19 | 400.38 |
| 1 | VHF REPEATER; RTR/DUCOR | 266 | | 200.19 | 200.19 |
| 7 | RF BASE STATION RADIO; JAIL/DISPATCH | 227 | | 105.19 | 736.33 |
| 4 | (4) RADIO DISPATCH CONSOLE POSITIONS | 301 | | 250.00 | 1000.00 |
| | | | | | |
| | Labor Rates for Above Contract: | | | | |
| | Standard Labor Rate \$170.00 an hour | | | | |
| | Overtime Labor Rate \$225.00 an hour | | | | |
| | Travel Rate \$85.00 an hour | | | | |
| | Fuel Surcharge \$20.00 an hour | | | | |
| | 24 X 7 ANNUAL MAINTANENCE AGREEMENT: AGREEMENT COVERS RADIO AND INFRASTRUCTURE REPAIR LABOR AND ANNUAL PM'S. -REPAIR PARTS EXCLUDED FROM AGREEMENT. DWS WILL PROVIDE BEST RESPONSE TIME BASED ON TRAVEL CONDITIONS. | | | | 2737.28 MONTH |

| CLIENT | DAY WIRELESS SYSTEMS |
|--|-------------------------------|
| FCC LICENSEE TEHAMA COUNTY SHERIFF'S OFFICE | DATE 07/22/2025 |
| WITNESS Dave Kain, Sheriff-Coroner | WITNESS CALVIN EMIGH |
| _____ AUTHORIZED SIGNATURE | _____ AUTHORIZED SIGNATURE |

NOTE: Make sure the second page is initialed by the customer.
DAY WIRELESS SYSTEMS MAINTENANCE AGREEMENT
TERMS & CONDITIONS

1. **DEFINITIONS.** "DWS" shall mean Day Wireless Systems. "Licensee" shall mean and apply to the FCC Licensee, or the User, or the Purchaser of the equipment to be maintained by the terms of this agreement.
2. **PERFORMANCE OF MAINTENANCE.** DWS agrees to provide maintenance (as defined below) for the Licensee of the equipment described on the previous page of this agreement beginning and ending on the dates indicated in consideration of Licensee's payment of the monthly maintenance charges. Maintenance shall include the labor and parts required to repair equipment, which has become defective through normal wear and usage.
3. **MAINTENANCE STANDARDS.**
 - a. The equipment will be maintained by DWS in accordance with these standards: (I) Motorola parts of equal quality will be used; (II) oil, water, dust and foreign substances will be removed from the equipment; (III) the equipment will not be subject to mechanical abuse; (IV) the equipment will be maintained at the levels necessary to provide the required communication; (V) routine maintenance procedures will be followed; and (VI) all maintenance work will be done by qualified technicians. The equipment will be inspected and adjusted periodically and as often as required. Maintenance service does not insure uninterrupted operation of the equipment.
 - b. EXCEPT FOR THE FOREGOING, DWS MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
4. **TIME AND PLACE OF MAINTENANCE WORK.** Maintenance work on the base station and other fixed equipment shall be performed at the location of the equipment, and the Licensee shall furnish heat, light, and power at the locations. Mobile units and removable equipment shall be delivered by the Licensee to the place of service indicated on the previous page of this agreement.
5. **EXCLUSIONS.**
 - a. This agreement does not include maintenance of any transmission line, antennas, tower, or tower lighting, unless such work is described on the previous page of this agreement, such maintenance may be furnished upon request at mileage, materials, and labor rates prevailing at the time of each call.
 - b. Maintenance does not include the repair or replacement of equipment which has otherwise become defective, including, but not limited to, damage caused by accidents, physical abuse or misuse of the equipment, acts of God, fires, and does not include extensive maintenance or replacement of equipment due to interference, intermodulation, or other degrading signals causing poor service that the equipment is not designed to reject.
6. **PAYMENT.**
 - a. DWS shall invoice Licensee on a monthly, quarterly, semi annual or annual basis for all amounts due under this agreement. ~~Licensee agrees that payment shall be made in ten (10) days after the date of the invoice.~~ *1/3*
 - b. Each invoice shall be due and payable whether or not the equipment is operating, and DWS may terminate this agreement by giving Licensee ten (10) days notice by certified mail if the Licensee defaults in its payment to DWS.
7. **FCC RECORDS.** Application and statements of fact when required by the Federal Communications Commission must be subscribed and sworn to by the Licensee, and the Licensee is responsible for meeting FCC requirements. However, DWS will provide the Licensee with forms, advice, and technical assistance, including frequency, modulation and power measurements, to aid in meeting those requirements.
8. **INTERRUPTION OF SERVICE.** The Licensee shall notify DWS in the event of the failure or malfunction of the unit. If DWS fails to repair the unit within a reasonable time, the Licensee shall notify the Headquarters Office in writing. After said notice from the Licensee to the Headquarters Office, DWS shall be liable for any interruption or interference affecting the use of or transmission through the equipment maintained to the extent of a pro rate allowance based on the monthly maintenance fee for the time such interruption or interference is attributable to the fault of DWS.
9. **FORCE MAJEURE.** DWS shall not be responsible for any damages, delay in performance or failure to perform under this Agreement if such

- damage, delay in performance, or failure to perform is caused by any acts or omissions of Licensee, fire, strike, or other labor disputes, embargo, government regulations or requirements (legislative, judicial, military or otherwise), power failure, electrical power surges or current fluctuations, lightning strike, flood war, water, the elements, or other forces of nature, delays or failures of transportation, equipment shortages, suppliers' failures or other causes beyond its reasonable control, whether or not similar to the foregoing.
10. ~~**AUTOMATIC RENEWAL.** After the "Date Maintenance Ends" indicated on the previous page of this agreement, this agreement shall continue for successive additional periods of 1 month, provided that either DWS or the Licensee may terminate this agreement on the "Date Maintenance Ends" or thereafter upon 30 days written notice to the other party sent by certified mail to the address indicated herein.~~ *1/3*
 11. **WAIVER.** Failure or delay on the part of DWS to exercise any right, power, or privilege hereunder shall not operate as a waiver thereof.
 12. **PRIOR NEGOTIATIONS.** This contract constitutes the entire agreement of the parties hereto and shall supersede all prior offers, negotiations, and agreements.
 13. **AMENDMENT.** No revision of this agreement shall be valid unless made in writing and signed by a General Manager or corporate officer of DWS and an authorized agent of the Licensee.
 14. **CONTROLLING LAW.** The parties agree that the terms of this Agreement shall be interpreted in accordance with the laws of the state of California. ~~Licensee agrees that venue of any action to enforce this Agreement shall be in Humboldt County, California.~~ *1/3*
 15. **WAIVER OF BREACH.** The waiver by DWS of any term under this Agreement is not a waiver of any other term or the waiver of the same term at any other time.
 16. **NOTICES.** Any notice required or permitted to be given under any of the provisions of this Agreement or governing law shall be given in writing and either hand delivered or sent by certified first class mail, postage prepaid, to the Licensee's address on the face of this Agreement and to DWS at ~~4700 SE International Way, Milwaukie, OR 97222.~~
 17. **ATTORNEYS' FEES.** In the event DWS or Licensee retains an attorney to compel compliance with the terms of this Agreement, each party shall be responsible for its own attorneys' fees, any collection costs incurred, and any other associated fees and charges.
 18. **SEVERABILITY.** If any portion of this Agreement is declared invalid, the remainder of this Agreement shall continue to be binding upon the parties.
 19. **ENTIRE AGREEMENT.** This Agreement constitutes the entire Agreement between Licensee and DWS. This Agreement may be amended only by written instrument executed by both parties.
 20. **LIMITATION OF LIABILITY.** In no event shall DWS be responsible to the Licensee for any indirect, special or consequential damages or lost profits arising out of or related to this Agreement or the performance or breach thereof. DWS's liability to the Licensee, if any, shall in no event exceed the total amount paid hereunder to DWS by the Licensee.
 21. **INDEMNITY.** DWS will indemnify and hold harmless Licensee and its officers, officials, employees, agents, and volunteers from and against all claims, damages, losses, and expenses including attorneys' fees arising out of this Agreement, caused in whole or in part by any negligent act or omission of DWS, or anyone directly or indirectly employed by DWS, or anyone acting on behalf of DWS.



CUSTOMER INITIAL

DATE