



Consolidated Communications Network of Colorado, Inc.

STATEWIDE DIGITAL TRUNKED RADIO SYSTEM (DTRS) PARTICIPANT AGREEMENT FOR TRIBAL AGENCIES

This Participant Agreement ("Agreement") is entered into by and between The Southern Ute Indian Tribe (the "Tribe" or "Participant"), whose address is _____, and CCNC, whose address is, CCNC, 40 West Littleton Blvd., Suite 210-129, Littleton, Colorado 80120-2400.

I. PURPOSE

CCNC Digital Trunked Radio System (DTRS) is a multi-site dedicated public safety wireless communications system. Participant benefits and services include, but are not limited to, an 700/800 MHz digital FM signal, multiple system redundancies with backup power, a wide range of talkgroups, auto affiliation and de-affiliation, electronic identification on all transmissions, microwave back-bone system reliability, encryption availability, system security, radio interoperability and 24-hour a day system monitoring.

II. DEFINITIONS

- A. **Participant Agreement** - the agreement entered into between CCNC and the Participant. The agreement sets forth the DTRS services provided to the Participant and the terms and conditions under which the services are provided.
- B. **Participant** - a public safety agency, including but not limited to a general government agency (local, state, tribal or federal), its authorized employees, personnel (paid and/or volunteer), and its service provider, participating in and using DTRS under a Participant Agreement.
- C. **Digital Trunked Radio System (DTRS)** - the State and partner-owned and operated statewide public safety radio communications network available to public safety agencies that become Participants.
- D. **CCNC** - Consolidated Communication Network of Colorado. A nonprofit corporation advisory panel of member Participants, which makes recommendations and advises on the orderly operation of DTRS.
- E. **SOC** - the State of Colorado, Communication Services, which operates the DTRS on behalf of its Participants, provides assignment of identification numbers, all database (fleetmapping) maintenance, and assignment of talkgroups within DTRS.
- F. **Radio** - either a control station, mobile, or portable radio, which has a unique identification number and operates on the DTRS.
- G. **Radio Programming Agency** - the approved agencies that are responsible for template programming and reprogramming, a complete list of which is maintained by SOC.
- H. **Partners** - owners of DTRS infrastructure.
- I. **System Management** - the responsibility residing within, as the DTRS operator, on behalf of all DTR Participants, to: Assign radio use priorities; manage talkgroups to assure appropriate use of DTRS; set standards for the selection and supervision of DTRS personnel; enforce guidelines, procedures, and protocols governing the operation of radios on DTRS; generate and use statistical data and reports concerning Participants' talkgroups, call duration, call types, busy signals, and other data analyses and reports; enforce termination of the Participant Agreement when a Participant's conduct or action(s) cause systematic and/or continuous DTRS operation problems.
- J. **Talkgroup** - a single channel, which allows a unique group of radio users to communicate with one another.

- K. Executive Committee** - a committee made up of directors elected by the directors at the annual meeting to run the business and affairs of the Authority.
- L. Technical Committee** – a committee made up of directors or members elected by the directors at the annual meeting to advise the directors on the technical and systemic operations of the Authority.
- M. Operations Committee** – a committee made up of directors or members elected by the directors at the annual meeting to advise the directors on the operational needs, function and affairs of the Authority.
- N. SOC Communication Services Manager** – the chief executive employee of the State of Colorado, Communication Services, who directs all operations of the DTRS on behalf of its Participants, including assignment of identification numbers, database (fleetmapping) maintenance, and assignment of talkgroups within DTRS.
- O. Template** - the software programmed in a radio, which controls the radio's functions and communication capabilities.

III. CCNC SERVICES

- A. Participant Questionnaire** - CCNC requires that an information questionnaire be completed so the Participant's current and ongoing communication needs and priorities are met.
- B. DTR Radio Programming and Template Design** - Radio programming and template design is available from the State of Colorado, Douglas County, Jefferson County, Arapahoe County, , Wireless Advanced Communications (WAC), Digitcom Electronics, and Motorola, Inc. Prior programming agreements must first be arranged before any template design will begin. Template programming by a Radio Programming Agency will commence after a reasonable time once the Participant completes the "Participant Questionnaire" and the "Participant Agreement" and has been approved by the CCNC Technical Committee.
- C. Talkgroup Allocation** – Talkgroups requested by the Participant will be reviewed by the CCNC Technical Committee. A thorough explanation should accompany the Participant Questionnaire detailing the number of talkgroups requested per agency and how they will be utilized. Talkgroup allocation decisions by CCNC are final and non-appeal able.
- D. System Management** - SOC in conjunction with the technical staff of system partners, are responsible for the operation, upgrades and enhancements, management, maintenance of DTRS, and the services provided under this Participant Agreement. System Management operates 8-4, Monday through Friday. Upon request of the Participant, SOC will inhibits lost or stolen radios, assign and enter radio ID's and Aliases. Requests are received via email towebdtr@state.co.us. The SOC maintains an activity log of all requests received by Participants and, except for emergencies, responds to the requests in the order they are received.
- E. Training** – Participant, employee, and other personnel radio user training is the responsibility of the Participant. If requested by the Participant, "train the trainer" training will be available as part of DTRS ongoing operation. Requests for training will be scheduled on a first come, first served basis, except for emergency requests, which will be processed on a priority basis.
- F. DTRS Radio Coverage** - DTRS is designed to provide mobile radio communication coverage on major State highways to the Participant. However, the system is provided as is and neither CCNC nor the State of Colorado makes any guarantee, either express or implied, as to a specific level of coverage. If the Participant detects possible DTRS network infrastructure malfunctions or radio communication coverage losses, the Participant should first contact its service or maintenance provider for an evaluation of the problem. If the service provider determines the problem is not an equipment installation or maintenance problem, the Participant should notify the SOC in writing or email. The SOC will promptly investigate and take appropriate corrective action to alleviate the coverage loss or network infrastructure malfunction, and report the corrective action to the Participant.
- G. DTRS Portable Radio Coverage** - Portable radio coverage is not guaranteed and will vary from location to location. The Participant is encouraged to conduct its own portable radio communications coverage test to determine the expected coverage level in its geographic jurisdiction. Additional coverage required beyond the mobile radio communication coverage on major State highways is the responsibility of the requesting Participant.

- H. Emergency Alert Availability** - If there is connection space available in the zone controller, and if the Participant possesses a twenty-four (24) hour dispatch center capable of receiving control data associated with all its talkgroups, and the Participant can verify to SOC that it has the capacity to monitor and supervise the Emergency Alert feature, this feature is available to the Participant. The Participant needs to be aware that it must obtain, at the Participant's expense, a license to operate its Radio Control Manager (RCM) from its equipment vendor and provide required T-1 connections.
- I. Private Calling Availability** - A Participant may request use of private calling. Private calling permits properly programmed mobile and portable radios in a talkgroup to enter into one-on-one conversations. Only the initiating and target radio(s) are able to communicate with each other. Private calling can tie-up the DTRS system resources. Consequently, a determination of the need and potential impact on the system will be made after the Participant Questionnaire has been reviewed.
- J. DTRS Infrastructure Maintenance** SOC in conjunction with technical staff of system partners provides complete monitoring, inspection, and maintenance programs for all DTRS tower sites and system infrastructure. Inspection and maintenance of non SOC tower sites is provided by system partners. Utilizing MOSCAD and Zone-watch management tools, SOC and system partner staff is able to systematically identify system service needs, failure trends, and spare parts inventory. SOC staff, system partner staff, and its certified vendors will provide high quality proactive system repair and maintenance in a timely manner to extend the life and performance of DTR for the direct benefit of all Participants.
- K. DTRS System Redundancy and Security** - DTRS provides a system redundancy called fault tolerance. With fault tolerance, a single point of failure will generally not result in negative system wide performance. Many redundant and backup systems within the DTRS virtually eliminate complete system failure. Several levels of survivability are available. In the case of a catastrophic event, the rest of the system will continue to function in a conventional radio communication manner.
- L. DTRS Disaster Recovery Plan** – SOC and CCNC maintains a Disaster Recovery Plan to cover DTRS communication services. "Disaster" means any unplanned interruption of operations, which materially affects the ability of DTRS to provide communication services to a Participant. The Disaster Recovery Plan provides for an alternate source of electrical power for uninterrupted service, separate computer resources and back-up equipment, and inventory sufficient to provide communication services to its Participants. The Disaster Recovery Plan also contains a protocol for determination or declaration of a disaster and an escalation procedure for dealing with a disaster, if one is declared.
- M. DTRS Performance Standards and Monitoring** - DTRS utilizes automated performance standards and automated diagnostics, which are monitored 24 hours a day, every day. System monitoring is performed at either Motorola's Systems Support Center or by SOC's technical staff. The DTRS adheres to stringent quality standards of installation and maintenance. Routine activities designed to insure system performance include scheduled automated testing of all sites, monitoring of Participant satisfaction on a regular basis, tracking of Participant problems and service requests, monitoring of scheduled and unscheduled system downtime, oversight of system traffic performance, drive testing of entire system, collection and analysis of empirical data are also strictly adhered to.
- N. DTRS Upgrades and Enhancements** - "Upgrades" are changes made to the DTRS to assure compliance or to improve upon previously existing features and operations. "Enhancements" are modifications made to DTRS services or systems that add functions or features not originally part of DTRS or the services requested by the Participant. Enhancements may require a Participant fee.

IV. PARTICIPANT OBLIGATIONS

- A. Participant Fees** – The SOC along with the CCNC Operational and Executive Committees will ascertain this assessment. *At some point in the future, DTRS User Fees could be established for all Participants; however, Participant will be given 30 days advance written notice prior to any determination of user fees.*
- B. Participant Radio Equipment** - The Participant may only use DTRS-approved radio equipment. A list of acceptable radio equipment is available on the DTRS Web Page: <http://www.state.co.us/dtr>. This list will be updated from time to time and will be made available to the Participant.
- C. Radio Maintenance and Repair** - The Participant is responsible for proper maintenance and repair of its radio equipment. This assures that the Participant's radios are in optimal operating order and will not have an adverse impact on other Participant's use of DTRS. The Participant's maintenance agreement with its service provider and the service provider's credentials will need to be reviewed by the CCNC Technical

Committee to assure the service provider understands and can comply with DTRS standards, guidelines, and protocols, and is "qualified" to service the Participant's radio equipment.

- D. No Personal Business** - No personal business may be conducted on the DTRS by the Participant, its employees, or authorized agents, including volunteers and the Participant's service provider.
- E. Compliance with Federal and State Laws** - The Participant will comply with all applicable federal, state and tribal laws, rules, and regulations.
- F. Compliance with DTRS Guidelines, Procedures, and Protocols** - The Participant will comply with all DTRS guidelines, procedures, and protocols governing the operation and use of DTRS as stated in this document. The Participant will comply with all advisories and/or recommendations of CCNC.
- G. System Management** - The Participant will comply with SOC System Management in order to assure the safe and efficient operation of DTRS for all Participants.
- H. Trained Personnel** - The Participant will not permit any employee or other personnel, including volunteers, to use DTRS until such individual(s) have received DTRS radio user training.
- I. Participant Contact Person** - The Participant will appoint one of its employees to serve as its Contact Person. The Contact Person will be responsible for authorization of template modifications, coordination of new radios onto the DTRS, providing fleetmapping data to the SOC and the CCNC Technical Committee for record keeping purposes, providing after hour emergency telephone numbers, attending Participant group meetings and CCNC meetings necessary for the safe and efficient operation of DTRS.
- J. Corrective Action** - In order to protect the integrity, security, safety, and efficient operation of DTRS for all its Participants, the Participant will take appropriate corrective action against any of its employees who violate DTRS guidelines, procedures, or protocols including those set out in this Participant Agreement.
- K. Abuse of Participant Privileges** - Repeated violation of DTRS guidelines, procedures, protocols, or violation of the Participant Agreement may result in termination of the Participant Agreement subject to the review and recommendation of the SOC Communication Services Manager and CCNC. A decision by the Communication Services Manager and CCNC is final and non-appealable.

V. PARTICIPANT APPLICATION PROCESS

CCNC has determined that unregulated expansion of user agencies on the DTRS is detrimental to the efficiency and serviceability of the system, and the existing user agencies. CCNC further finds that in order to insure an effective level of service for existing participants it must institute a method of controlled growth for the system. Therefore, the following policy shall remain in full force and effect until rescinded by CCNC in accordance with all applicable provisions of the CCNC by-laws.

- A. Public Safety Agencies** - Public safety agencies requesting use of the DTRS infrastructure, and who as part of their application commit to immediate provision of frequency pairs and associated equipment to the infrastructure, shall have their application evaluated by the CCNC Technical Committee. The CCNC Technical Committee shall evaluate and determine all system loading impacts that may arise from approval of the proposed new member agency. If the CCNC Technical Committee recommends approval of the application, the application shall be forwarded to the Executive Board of Directors who may approve the application. If the Executive Board of Directors does not approve the application, the application shall be placed into a pending status where it will be reopened for review upon availability of frequencies, or resolution of the reason for denial.

Public safety agencies requesting use of existing talkgroups on the DTRS system, and who are requesting the addition of a limited number of end user radios, shall have their application evaluated by the CCNC Technical Committee. The CCNC Technical Committee shall evaluate and determine all system loading impacts that may arise from approval of the proposed new member agency. If the CCNC Technical Committee recommends approval of the application, the application shall be forwarded to the Executive

Board of Directors who may approve the application. If the Executive Board of Directors does not approve the application, the application shall be placed into a pending status where it will be reopened for review upon availability of frequencies, or resolution of the reason for denial.

Public safety agencies requesting use of the DTRS infrastructure in metropolitan areas that are or may be experiencing loading problems and who do not have the ability to commit frequency pairs and associated equipment to the infrastructure, shall have their application placed in a pending status. Upon availability of 700 MHz frequencies and equipment, and upon commitment from the petitioning agency to provide frequencies and equipment, the application will be moved back into active status. At that time the application shall be forwarded for evaluation to the CCNC Technical Committee. The CCNC Technical Committee shall review the application and make final design recommendation to the Executive Board of Directors. After review by the Executive Board of Directors, and upon obtaining final written commitment from the petitioning agency, the Executive Board of Directors may approve the application.

- B. Non Public Safety Agencies** - Non public safety agencies requesting use of the DTRS infrastructure shall be advised that their application will be placed into a pending status awaiting availability of 700 MHz frequency pairs, and associated equipment. Upon availability of 700 MHz frequencies and equipment, and upon commitment from the petitioning agency to provide frequencies and equipment, the application will be moved back into active status. At that time the application shall be forwarded for evaluation to the CCNC Technical Committee. The CCNC Technical Committee shall review the application and make final design recommendation to the Executive Board of Directors. After review by the Executive Board of Directors, and upon obtaining final written commitment from the petitioning agency, the Executive Board of Directors may approve the application.

VI. DISPUTE RESOLUTION

If any issue of alleged non-performance arises under this Agreement, the parties agree to resolve the issue at the lowest management level of each party. If the issue remains unresolved, the parties agree to submit written summaries of the issue to the SOC and the CCNC Technical Committee for their consideration. The SOC and the CCNC Technical Committee will consider the details of the alleged non-performance, assess whether there have been past issues of non-performance, determine how long the alleged non-performance has been continuing, determine the seriousness of the alleged non-performance, and negotiate, in good faith, a mutually agreeable solution. In the event the SOC and the CCNC Technical Committee cannot agree on a solution, the alleged non-performance issue shall be directed to the SOC Communication Services Manager and the CCNC Executive Board who will seek good faith resolution of the non-performance issue with the Participant. A decision by the SOC Communication Services Manager and the CCNC Executive Board is final and non-appeal able.

VII. CCNC EXECUTIVE BOARD

The CCNC Executive Board, comprised of Participants, acts as an advisory panel on the DTRS. The CCNC Executive Board is charged with responsibility for review and recommendations regarding Participant operation, future DTRS system features and enhancements, review and advice on customer service complaints, non-performance issues and potential Participant termination because of abuse of Participant privileges.

VIII. DURATION, CANCELLATION & TERMINATION OF PARTICIPANT

Participation in the DTRS will remain in effect until canceled or terminated by either party upon 90 days written notice to either party. Termination of an infrastructure partner requires 365 days written notice unless such termination is a result of funds for participation and infrastructure obligations not being appropriated. The Participant Agreement may be terminated upon 30 days written notice, sent via certified mail, subject to review and recommendation by CCNC and the Communications Division Manager, for violation(s) of the terms and conditions of the Participant Agreement.

IX. TERMINATION ASSISTANCE

If this Participant Agreement is canceled or terminated for any reason, the SOC and CCNC will provide reasonable assistance requested by the Participant to allow for the orderly transfer of services to the Participant or its designee.

X. MISCELLANEOUS

- A. Waiver** - The failure of a party to insist upon strict adherence to any term of this Agreement shall not be considered a waiver or deprive the party of the right thereafter to insist upon the strict adherence to that term of the Agreement.
- B. Modification** - This Agreement may not be modified, amended, extended, or augmented, except by written amendment signed by both the parties.
- C. Governing Law** - This Agreement shall be governed by, and construed in accordance with applicable State of Colorado and Southern Ute Indian tribal law.
- D. Headings** - The headings given to the sections and paragraphs of this Agreement are inserted only for convenience and are in no way to be construed as part of this Agreement or as a limitation of the scope of the particular sections or paragraphs to which the heading refers.
- E. Independent Contractor Relationship** - The relationship between the SOC, CCNC and the Participant is that of an independent contractor and client. No agent, employee, or servant of the SOC or CCNC shall be deemed to be an employee, agent, or servant of the Participant. The Participant will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, subcontractors, and volunteers during the performance of this Agreement.
- F. Hold Harmless** – To the extent permitted by law and without respect to any other choice of law provisions in this Agreement, the Participant, the SOC, and CCNC agree to indemnify and hold each other and their employees, agents and officers, harmless from any claims arising from the performance of their duties in the maintenance of the DTRS equipment, unless such acts or omissions occurred outside the scope of official authority or were willful and wanton. Such claims shall be subject to the limitations of the Colorado Governmental Immunity Act, CRS 24-10-101 et seq., and nothing contained herein shall be construed as a waiver of the Tribe’s immunity from suit.
- G. Non-Appropriation** – The payment of any governmental Participant’s obligations hereunder in fiscal years subsequent to the current year are contingent upon funds for this Agreement being appropriated and budgeted. If funds for this Agreement are not appropriated and budgeted by any governmental Participant in any year subsequent to the fiscal year of executing this agreement, that governmental Participant may terminate its participation in this Agreement by giving notice to the CCNC and the SOC.
- H. Force Majeure** – Parties to this agreement shall not be responsible for any failure to perform hereunder due to unforeseen circumstances or due to causes beyond the non-performing party’s reasonable control, including without limiting the generality of the foregoing, acts of God, war, riot, embargoes, acts of government, civil or military authorities, catastrophe, fire, floods, accidents, strikes, shortages of transportation, facilities, fuel, energy, labor or material acts of a public enemy.

XI. NOTICES

All notices given under this Participant Agreement, except for emergency service requests, will be made in writing. All notices will be sent to the parties as follows:

PARTICIPANT:

CCNC:

Either party may change their addresses, which change will be effective seven (7) days after notice of such change is given.
This Agreement shall become effective as of the date of the last signature.

PARTICIPANT:

By: _____

Its: _____

Dated: _____

CONSOLIDATED COMMUNICATIONS NETWORK OF COLORADO

By: _____

Its: **President**

Dated: _____

CCNC: Consolidated Communications Network of Colorado
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