



# Huntsville, Alabama

305 Fountain Circle  
Huntsville, AL 35801

## Cover Memo

**Meeting Type:** City Council Regular Meeting **Meeting Date:** 3/27/2025

**File ID:** TMP-5247

**Department:** Police

**Subject:**

**Type of Action:** Approval/Action

Resolution authorizing the Mayor to enter into a Service Agreement between the City of Huntsville and Mobile Communications America.

Resolution No.

**Finance Information:**

**Account Number:** 3400-41-00000-515520-00000000

**City Cost Amount:** \$ 3,360

**Total Cost:** \$ 3,360

**Special Circumstances:**

**Grant Funded:** \$ 0.00

**Grant Title - CFDA or granting Agency:** N/A

**Resolution #:** N/A

**Location: (list below)**

**Address:** N/A

**District:** District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5 ☐

**Additional Comments:**

Contract that provides two-way radio communication for the police department. Cost is \$3,360/annually.

**RESOLUTION NO. 25 - \_\_\_\_\_**

**BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama, that the Mayor be, and is hereby authorized to enter into an Agreement by and between the City of Huntsville and Mobile Communications America, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "MCA Subscription Service Agreement Between The City of Huntsville and Mobile Communications America" consisting of eight (8) pages, and the date of March 27, 2025 appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, and executed copy of said document being permanently kept on file in the office of the City Clerk of the City of Huntsville, Alabama.

**ADOPTED** this the 27<sup>th</sup> day of March, 2025.

\_\_\_\_\_  
President of the City Council of  
the City of Huntsville, Alabama

**APPROVED** this the 27<sup>th</sup> day of March, 2025.

\_\_\_\_\_  
Mayor of the City of  
Huntsville, Alabama



Mobile Communications America, Inc.  
4424 Bragg Blvd  
Suite 101  
Fayetteville NC 28303  
(800) 396-1911  
United States

## Service Agreement

### Bill To

Jessica Winn  
City of Huntsville, AL  
4014 North Memorial Pkwy  
431  
Huntsville AL 35805  
(256) 762-2728  
United States

### Ship To

Jessica Winn  
City of Huntsville, AL  
4014 North Memorial Pkwy  
431  
Huntsville AL 35805  
(256) 762-2728  
United States

Quote #	Quote Date	Expires	Sales Rep
Q3070019006	12/17/2024	2/16/2025	Kade Harris <a href="mailto:KadeHarris@Callmc.com">KadeHarris@Callmc.com</a>

Billing Frequency	Term Length	Start Date	End Date
Annually	30 Months	12/17/2024	6/16/2027

Description	Purchase Order
	PO-20252197

Item Description	Quantity	Rate	Amount
00101095 Motorola TLK100 Radio	7	\$0.00	\$0.00

Subscription	Qty	Rate	Frequency	Repeat Every	Amount
MCA Wave Subscription	1				
MCA-MSS-NS-WAVE-100 MCA Wave TLK100 Airtime Services	7	\$300.00	Annually	1	\$2,100.00
MCA-MSS-NS-WAVE-100D Motorola TLK100 Handheld Radio	7	\$120.00	Annually	1	\$840.00
MCA-MSS-NS-WAVE-RPP Radio Protection Plan	7	\$60.00	Annually	1	\$420.00

Subtotal	\$3,360.00
Shipping	\$10.00
Tax Total	\$0.00

Total \$3,360.00

\_\_\_\_\_  
President of the City Council of the City of  
Huntsville, Alabama  
Date: \_\_\_\_\_



# MCA Subscription Service Agreement

This MCA Subscription Service Agreement (the "Agreement") is made on the March 27, 2025 ("Effective Date") between Mobile Communications America, Inc. ("MCA"), whose registered office is in Spartanburg, SC and City of Huntsville, AL ("Customer") (collectively the "Parties").

The Customer wishes to purchase subscription services from MCA that MCA is reselling from the Service Provider (defined below) in return for upfront and monthly payments from the Customer as set forth in this Agreement. This Agreement sets forth the terms and conditions under which MCA will provide and Customer will receive the Subscription Services, as well as any equipment to be furnished by MCA.

## 1. DEFINED TERMS. For purposes of this Agreement:

**"Agreement"** means this Subscription Service Agreement entered into between MCA and the Customer including attachments, Order Forms, or amendments.

**"Charges"** means the total amount due for the Equipment and Subscription Services, including without limit any applicable late charges, termination charges, replacement or repair charges, or interest, purchased by Customer from time to time and all sales, use and other taxes, fees and charges that may be imposed by any governmental body relating to the sale of Equipment and provision of Subscription Services.

**"Confidential Information"** means all information which is secret or otherwise not publicly available (in both cases either in its entirety or in part) including commercial, financial, marketing or technical information, knowhow, trade secrets or business methods, or personal data, in all cases whether disclosed orally or in writing before or after the date of this Agreement. **"Customer"** means the entity who purchases the Subscription Services from MCA.

**"Customer Data"** means data provided by Customer to MCA and Service Provider to be processed and used in connection with the Subscription Services.

**"Customer's Equipment"** means Equipment that is Customer's equipment that is not provided by MCA pursuant to this Agreement. **"Defect"** means a deficiency that renders any Equipment or Software unable to perform the functions or to provide the facilities or to meet the performance standards as set out in its specification, or otherwise renders it noncompliant with this Agreement. "Defect" shall not include Equipment that has been damaged as a result of improper use.

**"Documentation"** means any description of the Software and all technical specifications, user manuals, operating manuals, process definitions and procedures relating thereto.

**"Equipment"** means any device, any infrastructure element or equipment, any accessory, and any part or portion of such products, including Software and other intangible elements, required in order to enable or support the Subscription Service. Equipment may be provided and owned by MCA for the duration of the Initial Term or purchased to own by the Customer as part of this Agreement.

**"Initial Term"** means the initial duration of Customer contract commitment as indicated on the Order Form.

**"Intellectual Property"** means patents, trademarks, trade names and service marks, present and future copyrights (including software), topography rights, database rights, and design rights, moral rights, trade secrets and rights of confidence, knowhow and all rights or forms of protection of a similar nature or having similar effect to any of them which may subsist anywhere in the world whether or not any of them is registered and including applications for registration for any of them.

**"Intellectual Property Rights"** means all right, title and interest in and to Intellectual Property.

**"Licensed Product"** means a) Software that is hosted, downloaded, or installed at Customer's site, b) Documentation; c) associated user interfaces; d) help resources; and e) any related technology or other services made available by the Solution.

**"MCA Equipment"** means Equipment owned by MCA that Customer will use during the Term but title to which MCA shall retain.

**"Service Provider"** means the entity or entities, if more than one, collectively, providing the Subscription Services.

**"Software"** means the object and / or source code of applications owned or licensed by Service Provider supplied as part of the Subscription Services, or as otherwise made available to Customer pursuant to this Agreement.

**"Solution"** means collectively, Service Provider services, and other software, servers and/or hardware or Equipment provided in conjunction with the Subscription Services provided by MCA.

**"Solution Data"** means Customer Data that is transformed, altered, processed, aggregated, correlated, or operated on by Service Provider, its vendors or other data sources and data that has been manipulated or retrieved using Service Provider know-how to produce value-added content that is made available to Customer.

**"Term"** means the Initial Term and any renewal term.

**"Subscription Services"** means those subscription services to be provided by Service Provider to MCA for resale to Customer, the nature and scope of which are more fully described in this Agreement or other Solution materials provided by MCA.

**"Users"** means Customer's authorized employees or other individuals authorized to utilize the Subscription Services on behalf of Customer and who will be provided access to the Subscription Services by virtue of a password or equivalent activation mechanism, implemented by MCA.

**"Underlying Wireless Network Provider"** means the entity providing cellular service to Customer in order to use the Subscription Services.

**"Working Days"** means any day which is not a Saturday, Sunday or federal holiday in the United States.

**2. ACCEPTANCE.** This Subscription Service Agreement ("Agreement") is made and entered into immediately upon acceptance of its terms and conditions by Customer, payment for services, or immediately upon Customer's use of the Solution, whichever shall first occur.



**3. SERVICES.** In consideration of payment of the Charges, MCA will provide the Subscription Services as defined below:

**MCA WAVE PTT Subscription Service** as specified on the Order Form and defined on the MCA WAVE Webpage (<https://wave.callmc.com/>). Subscription Service features and capabilities may change time to time as the Subscription Service is updated or enhanced and those capabilities are made available at the sole discretion of the Service Provider. Subscription Services will only be available for Equipment that is properly installed and is properly registered and provisioned. Customer acknowledges that the unavailability of cellular coverage is normal and expected in some circumstances, particularly in rural areas, and that at times of high usage concentrated in particular locations, access to the network may also be delayed in such locations. Some Subscription Services may not be available or may operate differently in certain markets. Customer also acknowledges that Global Positioning System (GPS) system operation will vary based on connectivity with the satellites, which may be unavailable in various locations and at certain times.

**4. NO RELATIONSHIP WITH UNDERLYING NETWORK PROVIDER.** The Underlying Wireless Network Provider, shall have no liability whatsoever for Customer's losses, claims or damages for any case whatsoever, including but not limited to any failure or disruption of Subscription Services provided under this Agreement, regardless of the form of action, whether in contract, tort or otherwise.

CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT IT HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE UNDERLYING WIRELESS NETWORK PROVIDER OR ITS AFFILIATES OR CONTRACTORS AND THAT CUSTOMER IS NOT A THIRD-PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN MCA, SERVICE PROVIDER, AND THE UNDERLYING WIRELESS NETWORK PROVIDER. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE UNDERLYING WIRELESS NETWORK PROVIDER AND ITS AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO CUSTOMER AND CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR.

**5. OBLIGATIONS.**

a. MCA shall provide the Subscription Services in accordance with Service Provider documentation, good industry practice, and in compliance with all applicable laws. This undertaking shall not apply to the extent of any nonconformance of the Subscription Services which is caused by use contrary to Service Provider and MCA instructions or caused by any party other than MCA or Service Provider. If the Subscription Services do not conform to the foregoing undertaking, MCA will, at its expense, use all reasonable commercial endeavors to cause Service Provider to correct any such nonconformance promptly, or endeavor to provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking or services provided under this Agreement. Notwithstanding the foregoing, neither Service Provider nor MCA warrants that the Customer's use of the Solution, Equipment, Software or Subscription Services will be uninterrupted or error free.

b. Customer shall: 1) provide MCA or Service Provider with all necessary cooperation in relation to this Agreement, and all necessary access to such information as may be required by Service Provider or MCA in order to render the Subscription Services; 2) provide to MCA and Service Provider reasonable access to relevant Customer information, personnel, systems, and other general assistance; 3) install Equipment per the manufacturer's installation guides (as required); 4) comply with all applicable laws and regulations with respect to its activities under this Agreement; and, 5) carry out all other Customer responsibilities set out in this Agreement or in any Order Forms, Attachments or Schedules in a timely and efficient manner.

c. Both Parties shall at their own expense promptly: execute all documents and do all acts and things reasonably required by the other party to give effect to the terms of this Agreement, and within such time limits as are reasonable in the circumstances, provide all accurate information, documentation and assistance reasonably requested by the other Party to enable that other Party to fulfil its obligations hereunder. In making the Subscription Services available, MCA shall operate as, and have the standing of, an independent contractor.

**6. PAYMENTS AND COLLECTION.** Customer will pay MCA per the amounts and frequency specified on the Order Form. Billing and invoicing will occur the first of every month. All amounts due under the Agreement (including, without limitation amounts due for any Subscription Service, Equipment, Licensed Product, and any other charges) must be paid on or before the payment due date established by this Agreement, or by any related invoice. If not otherwise agreed to, invoice payment terms are all Net 30. Invoicing will occur once Subscription Services are activated, and/or associated Equipment has shipped. The Customer shall pay the Charges invoiced without any set off, deductions or withholding whatsoever. Where Customer has elected to pay by credit card, Customer hereby authorizes MCA to process credit card vouchers in Customer's name and pay for all Charges incurred under the terms and conditions of this Agreement. Customer has read this Agreement, understands and agrees with all terms and conditions, and indicates so by completing and signing this Agreement. Customer authorizes ongoing Charges per the terms of this Agreement on Customer's credit card. A credit card convenience charge may apply as specified on the Order Form.

If Customer believes any invoice is incorrect, Customer must notify MCA in writing concerning Customer's dispute within 14 days from the date of the first invoice giving rise to Customer's dispute or waive Customer's right to that dispute. If MCA agrees with Customer's position, MCA will credit Customer's account or, if Customer's account is ended, send Customer a check. Customer will pay MCA for any expenses MCA incurs in collecting amounts due under this Agreement, including without limitation, court costs and reasonable attorneys' fees. For the purpose of collecting amounts due MCA, MCA and MCA's agents may contact Customer's address, email, PTT number, and any other phone/cell phone number provided or as otherwise permitted by law, including but not limited to, using prerecorded or live calls, emails, and calls or messages delivered by an automatic telephone dialer system. If Customer has not paid all sums due in accordance with the terms hereof, a monthly finance charge equal to the greater of (a) 1.5% per month or (b) the highest amount permitted by law shall accrue and be payable each month until paid in full. Furthermore, upon Customer's failure to make payment in accordance with the terms hereof, a late fee of ten percent



(10%) of the amount past due shall be due and payable by Customer with respect to each such late payment. The waiver of a finance charge, late fee or any portion thereof shall not be deemed to be a waiver of any future finance charges or late fees.

7. **TERM.** This Agreement shall be effective as of the Effective Date and shall continue in force for the Term and thereafter unless or until either Party serves thirty (30) day written notice of termination. After the end of the Initial Term, the Agreement will renew for successive one-month terms unless either MCA or Customer terminate this Agreement as provided herein. Either Customer or MCA may terminate this Agreement upon the expiration of any renewal term by written notice as provided herein.
8. **DEFAULT.** The occurrence of any of the following events constitutes default under the Agreement: (i) Customer's failure to pay when due any amount payable under this Agreement; (ii) the sale, lease, or transfer of Subscription Services without MCA's prior written consent; (iii) any statement provided by Customer or someone on Customer's behalf that is false or misleading; (iv) use of Equipment, Subscription Services, Licensed Product, or the underlying system in a manner that negatively affects Service Provider's or MCA's service or operations (v) use of Subscription Services for an unlawful, fraudulent, abusive or unethical purpose, or not in accordance with Service Provider's Acceptable Use Policy, or is not approved by MCA or Service Provider (vi) any other breach of Customer's obligations under the Agreement. Upon the occurrence of any default, MCA may immediately disconnect any Subscription Service, and may terminate this Agreement and pursue any additional legal remedies. MCA reserves the right to discontinue or suspend Subscription Services at any time without notice to Users and Customers that misuse the Subscription Services, jeopardize the Licensed Product or public safety in any way.
9. **TERMINATION FOR CAUSE.** Either Party may terminate this Agreement for cause: a) immediately on notice if the other Party commits a material breach or default (as defined in section titled Default) of its obligations under this Agreement which is capable of remedy and fails to remedy such breach or default or such breach or default continues for thirty (30) days after notice of such material breach or default; b) immediately on written notice if the other Party commits a material breach or default of its obligations under this Agreement which cannot be remedied; or c) on thirty (30) days' notice if the other Party is repeatedly in breach of its obligations under this Agreement and the overall effect of the breach is material and fails to remedy the breach(es) within thirty (30) days of notice to do so; or d) immediately on notice if the other Party is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of its creditors, or goes into voluntary (otherwise than for reconstruction or amalgamation) or compulsory liquidation, or a receiver or administrator is appointed over its assets, or if the equivalent of any such events under the laws of any of the relevant jurisdictions occurs to the other Party. Any failure by the Customer to comply with any of its obligations in the section titled Obligations shall be deemed a material breach of this Agreement. If any of the events detailed in such section occur, MCA may, on giving prior notice where practicable, suspend the Subscription Services without prejudice to its right to terminate the Agreement. Where the Subscription Services are suspended under this section, the Customer must pay any Charges due for the Subscription Service until this Agreement is terminated. MCA shall be entitled to charge the Customer its reasonable costs in restoring the Subscription Services following any such period of suspension. If any Party delays in acting upon a breach, that delay will not be regarded as a waiver of that breach. If either Party waives a breach of this Agreement, that waiver is limited to that particular breach and shall not prevent the subsequent enforcement of that provision. Any waiver of any breach of this Agreement must be in writing to be effective. If the Agreement is terminated by MCA for cause during the Initial Term then the Customer must pay, without prejudice to any other rights MCA may have, the remaining balance owed on the subscription services for the remainder of the contract term.
10. **TERMINATION FOR CONVENIENCE.**
  - a. **BY CUSTOMER.** The Customer may terminate this Agreement and all Subscription Services at any time by giving thirty (30) days' prior written notice, subject to the payment of the remaining balance owed on the subscription services for the remainder of the contract term. The Customer may terminate one or more of the Subscription Services at any time by giving thirty (30) days' prior written notice, subject to the payment of the remaining balance owed on the subscription services for the remainder of the contract term.
  - a. **BY MCA.** MCA may terminate the Agreement at any time by giving sixty (60) days' prior written notice, such notice not to expire before the end of the Initial Term provided always that MCA may terminate the Agreement at any time before the end of the Initial Term if the events in the section titled Termination for Breach occur. The termination of this Agreement or of any of the Services shall be without prejudice to the rights and remedies of either Party that may have accrued up to the date of termination. MCA may terminate this Agreement or any Subscription Service at any time immediately upon notice if Service Provider terminates its agreement with MCA or such Subscription Service. Notwithstanding the foregoing, MCA shall give Customer notice of termination as soon as reasonably practicable after MCA receives notice of termination of its agreement with Service Provider or notice of termination of any Subscription Service.
11. **EFFECT OF TERMINATION.** Upon termination of this Agreement for any reason whatsoever, the relationship of the Parties shall cease to the extent of the Subscription Services being provided under this Agreement and any rights or licenses granted under or pursuant to this Agreement shall cease. Upon termination of the Agreement, each Party shall promptly return to the other Party, or dispose of in accordance with the other Party's instructions, all of the other Party's Confidential Information, data, or documents, together with all copies of the same, certify it has done so, and shall make no further use of such Confidential Information, data, or documents. MCA shall submit its final invoice to the Customer setting out the total amounts due to MCA pursuant to this Agreement, and the Customer shall pay the same no later than the end of the month following the month in which the invoice was issued by MCA. MCA Equipment returns, if applicable will be facilitated between MCA and the Customer.



**12. E911 / EMERGENCY SERVICES ARE NOT PROVIDED.** NO EMERGENCY SERVICES ACCESS IS PROVIDED OR CONTEMPLATED UNDER THIS AGREEMENT OR UNDER THE SUBSCRIPTION SERVICES ASSOCIATED WITH THIS AGREEMENT. THE SYSTEM AND ASSOCIATED SUBSCRIPTION SERVICES DO NOT SUPPORT E911 OR 911 DIALING.

**13. PRIVACY & DATA COLLECTION:**

a. **Solution Data.** Service Provider, its vendors and licensors are the exclusive owners of all right, title, and interest in and to the Solution Data, including all Intellectual Property Rights therein. As a reseller of Subscription Services that create Solution Data, Service Provider has granted MCA the right to re-distribute the Solution Data to Customer. Accordingly, MCA grants Customer a personal, non-assignable, nontransferable, non- sublicensable, royalty-free, non-exclusive license to use the Solution Data solely and exclusively to: (i) access, view, use, copy, and store the Solution Data for Customer's internal business purposes and, (ii) when specifically permitted in writing by Service Provider, publish Solution Data on Customer's websites for viewing by the public. To provide optimal Subscription Services, and in accordance with applicable laws, rules and regulations, Service Provider may use and disclose for system diagnostics, operational and other purposes, information about Users, including, but not limited to, User's usage, name, employer, password, street address, telephone number, email address, and/or location. MCA and Service Provider reserve the right to monitor and audit use of the Subscription Services. Customer will cooperate and will require its Users to cooperate with such monitoring or audit. **THE UNDERLYING WIRELESS NETWORK PROVIDER MAY HAVE ADDITIONAL POLICIES REGARDING PRIVACY FOR USERS OF ITS NETWORK.**

b. **Customer Data.** Customer retains ownership of Customer Data. Customer grants MCA and Service Provider and their subcontractors a personal, royalty- free, perpetual, non-exclusive license to access, use, host, cache, store, reproduce, copy, modify, combine, analyze, create derivatives from, communicate, transmit, publish, display, and distribute such Customer Data for the purpose of providing the Subscription Services to Customer and Users, including without limitation, the right to use Customer Data for the purpose of developing new or enhanced solutions. In addition to the rights listed above, Customer grants Service Provider a license to sell the anonymous version of Customer Data for any purpose.

c. **Feedback.** Any Feedback given by Customer is entirely voluntary and, even if designated as confidential, will create no confidentiality obligation for MCA or Service Provider. Feedback means comments or information, in oral or written form, given to MCA or the Service Provider by Customer, in connection with or relating to the Solution and Subscription Services. Service Provider is free to use, reproduce, license, or otherwise distribute and exploit the Feedback without any obligation to Customer. Customer acknowledges that Service Provider's receipt of the Feedback does not imply or create recognition by Service Provider of either the novelty or originality of any idea. Customer further agrees that all fixes, modifications and improvements to the Licensed Product or Subscription Services conceived of or made by Service Provider that are based, either in whole or in part, on the Feedback are the exclusive property of Service Provider and all right, title and interest in and to such fixes, modifications or improvements to the Licensed Product or Subscription Services will vest solely in Service Provider.

d. **Privacy.** Customer bears responsibility for compliance with any laws and regulations regarding tracking; location-based services; gathering, storing, processing, transmitting, using or misusing; or otherwise handling personally identifiable information ("PII"), including information about Users of the Solution or citizens in the general public. Further, it is Customer's responsibility to comply with any laws or regulations prescribing the measures to be taken in the event of breach of privacy or accidental disclosure of any PII. Enacting and enforcing any internal privacy policies for the protection of PII, including individual disclosure and consent mechanisms, limitations on use of the information, and commitments with respect to the storage, use, deletion, and processing of PII in a manner that complies with applicable laws and regulations will be Customer's responsibility. MCA will not evaluate the sufficiency of such policies and disclaims any responsibility or liability for privacy practices implemented by Customer, or lack thereof. Customer acknowledges and agrees that Subscription Services and the Solution are not designed to ensure individual privacy. Customer will inform Users that the Solution may enable visibility to PII, as well as physical location of individuals. MCA and Service Provider cannot provide any assurance of individual privacy in connection with the Solution. Customer will defend, indemnify, and hold MCA and Service Provider harmless from any and all liability, expense, judgment, suit, or cause of action, which may accrue against them for causes of action for damages related to tracking, location-based services, breach of privacy, and the use or misuse of PII provided that MCA and Service Provider give Customer prompt notice of any such claim or suit. MCA and Service Provider shall reasonably cooperate with Customer in its defense or settlement of such claim or suit.

Customer acknowledges and agrees that Subscription Services are not designed to ensure individual privacy. Customer will inform Users that the Solution and Subscription Services may enable visibility to PII, as well as physical location of individuals. Neither MCA, Service Provider, nor Customer can provide any assurance of individual privacy in connection with the Solution or Subscription Services.

**14. EQUIPMENT**

a. **Customer Equipment.** Only devices approved by Service Provider can be activated and deployed in connection with use of the Subscription Services. If Customer's Equipment and software is critical to the operation and use of the Subscription Services, Customer is solely responsible for supporting and maintaining Customer's Equipment and software. Any failures or deficiencies, including but not limited to, system capacity or RF coverage of Customer's Equipment, services, and software may impact the functionality of the Solution and the Subscription Services to be delivered. Any vulnerabilities or inefficiencies in Customer's system may also impact the Solution and associated Subscription Services.

a. **MCA Equipment.** As part of the Solution, MCA may provide MCA Equipment that Customer will have the right to use during the Term or Customer may purchase Equipment from MCA that will be used as part of the Solution. MCA will retain title to MCA Equipment until completion of contract term. Customer has no rights to MCA Equipment other than temporary use. MCA will warrant and service all MCA Equipment per the warranty as set forth below. Customer will be responsible for repairs or replacements required beyond the terms of MCA's



warranty. Customer must notify MCA immediately if MCA Equipment is lost or is stolen, and regardless of circumstances must reimburse MCA the full value of replacement MCA Equipment. MCA will charge any repair or replacement fees the month following notification or when service is delivered. MCA grants Customer the right to use MCA Equipment until termination of this Agreement or if certain MCA Equipment is used with respect to a particular Subscription Service, until such Subscription Service is cancelled or deactivated for any reason., whichever first occurs. Customer will be entitled to ownership of equipment once contract term is completed, and all contractual amounts have been paid. In the event that temporary use privileges are terminated, Customer must immediately return MCA Equipment at its expense in good working condition. If MCA Equipment is not returned within 30 days of termination of privileges or returned in a damaged or non-working condition, Customer will be charged either a repair or replacement fee at the sole discretion of MCA.

- 15. WARRANTIES.** MCA warrants that for the Term, the Equipment will not have any material Defects. MCA does not warrant Defects that are caused by or result from: Customer action over and above normal wear and tear; or any changes to the Software (required to operate the Equipment) or configuration effected by the Customer, User or a third party; or Customer or User misuse including where the Customer or User fails to use the Equipment in accordance with Service Provider usage requirements; incorrect environmental conditions including where the Customer or User fails to maintain the temperature and humidity levels in accordance with manufacturer or Service Provider instructions; connected Customer Equipment or provided equipment; electrical surges or failures; lightning damage; electromagnetic interference; improper installation; any other accidental or deliberate damage; and any services and/or products supplied by a third party and not under this Agreement. Where MCA is in breach of this warranty and the Customer has notified MCA, MCA will, at its discretion, repair or replace any Equipment or any element of any Equipment to correct any Defects during the warranty period as the sole and exclusive remedy. **DISCLAIMER OF OTHER WARRANTIES. THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR THE EQUIPMENT, SOFTWARE, SUBSCRIPTIONS, AND SERVICES PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. MCA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE**
- 16. Availability and Accuracy.** Customer acknowledges that functionality of the Solution as well as availability and accuracy of Solution Data is dependent on many elements beyond MCA's and Service Provider's control, including databases managed by Customer or third parties and Customer Equipment, software, website portal and internet connectivity to that portal, and Customer Data, GPS system performance, wireless network system performance. Therefore, MCA does not guarantee availability or accuracy of data, or any minimum level of coverage or connectivity. Interruption or interference with the Subscription Services or Solution may periodically occur.
- 17. LIMITATION OF LIABILITY.** The maximum aggregate liability of MCA to the Customer under this Agreement in relation to all claims made in any one calendar year for all losses, damages, costs, claims or expenses suffered by Customer arising out of or in connection with this Agreement, including any breach of this Agreement or any tort (including negligence or breach of statutory duty) or misrepresentation or otherwise in connection with MCA's obligations under this Agreement, shall under no circumstances exceed the total amount paid for the applicable Subscription Services in the relevant calendar year in which the claim or claims are made. MCA shall not be liable to the Customer, whether under the terms of this Agreement, in tort (including negligence) or breach of statutory duty or contract or misrepresentation or otherwise for any of the following losses or damage (whether such losses or damage were foreseen, foreseeable, known or otherwise): loss of revenue; loss of profits; loss of business; loss of anticipated savings; or loss of data; in each case whether direct or indirect, special, or consequential loss or damage, howsoever arising. MCA will not be liable for any loss or injury to any person or property, and Customer waives all subrogation and rights of recovery against MCA, that an insurer or person may have as a result of paying a claim for such loss or injury to any other person.
- 18. ADDITIONAL DISCLAIMER.** MCA AND SERVICE PROVIDER DISCLAIMS ANY AND ALL LIABILITY FOR ANY AND ALL LOSS OR COSTS OF ANY KIND ASSOCIATED WITH 1) THE INTERRUPTION, INTERFERENCE OR FAILURE OF CONNECTIVITY, VULNERABILITIES OR SECURITY EVENTS, WHETHER OR NOT THEY ARE DISCOVERED BY MCA OR SERVICE PROVIDER; 2) PERFORMANCE OF CUSTOMER EQUIPMENT AND SOFTWARE OR ACCURACY OF CUSTOMER DATA; 3) IF ANY PORTION OF THE SOLUTION OR LICENSED PRODUCT RESIDES ON CUSTOMER'S PREMISES, DISRUPTIONS OF AND/OR DAMAGE TO CUSTOMER'S OR A THIRD PARTY'S INFORMATION SYSTEMS, EQUIPMENT, AND THE INFORMATION AND DATA, INCLUDING BUT NOT LIMITED TO, DENIAL OF ACCESS TO A LEGITIMATE SYSTEM USER, AUTOMATIC SHUTDOWN OF INFORMATION SYSTEMS CAUSED BY INTRUSION DETECTION SOFTWARE OR HARDWARE, OR FAILURE OF THE INFORMATION SYSTEM RESULTING FROM THE PROVISION OR DELIVERY OF THE SUBSCRIPTION SERVICES; 4) AVAILABILITY OR ACCURACY OF SOLUTION DATA; 5) INTERPRETATION, USE OR MISUSE IN ANY WAY OF SOLUTION DATA; 6) IMPLEMENTATION OF RECOMMENDATIONS PROVIDED IN CONNECTION WITH THE SUBSCRIPTION SERVICES; 7) TRACKING AND LOCATION BASED SERVICES, BREACH OF PRIVACY, AND THE USE OR MISUSE OF PERSONALLY IDENTIFIABLE INFORMATION.
- 19. INDEMNITY.** MCA agrees to indemnify and hold harmless the Customer, including its officers, directors, and employees, from and against all losses, damages, expenses, and claims to the extent caused solely by the negligent acts or omissions of MCA in the performance of Services.
- 20. FORCE MAJEURE.** If any Party is unable to perform any obligation under this Agreement because of a matter beyond that Party's reasonable control (the "Affected Party"), such as pandemics, epidemics, lightning, flood, exceptionally severe weather, fire, explosion, acts of God, war, civil disorder, acts of terrorism, freight embargo, industrial disputes (whether or not involving the Affected Party's) or acts of local or central government or other competent authorities, or events beyond the reasonable control of that Affected Party's suppliers, the Affected Party shall



have no liability to the other for that failure to perform except that the Customer always has a duty to pay all Charges due and owing. MCA will have no liability to the Customer for failure to supply the Subscription Services in the event MCA or Service Provider is being prevented by restrictions of a legal, common law or regulatory nature. If any of the events detailed in this section continue unbroken for more than three (3) months, the other party may serve notice on the Affected Party terminating this Agreement or the affected Subscription Service, without liability by reason of such termination.

- 21. AGREEMENT CHANGES.** MCA and Service Provider reserve the right to change the Subscription Services from time to time, provided that: such changes to the Subscription Services (which may include the withdrawal of some Subscription Services or part of a Subscription Service and their replacement with new Subscription Services or parts of a Subscription Service) are part of ongoing product development. MCA reserves the right to change the Charges for Subscription Services and related Equipment upon 60 days' prior notice to the Customer. Where a change in applicable law requires a change to the Subscription Services or Equipment, nothing shall prevent MCA from implementing such a change provided that: (1) MCA gives Customer reasonable notice of the change; or (2) if the change materially affects the performance or functionality of the Subscription Services or Equipment, MCA and Service Provider provide a suitable replacement or workaround in relation to the change.
- 22. CONFIDENTIALITY.** The Parties will keep in confidence any Confidential Information (whether written or oral) obtained pursuant to this Agreement and shall not, without the written consent of the other Party, disclose such Confidential Information to any person (other than their employees or professional advisers, or in the case of MCA the employees of any MCA subsidiary company or their suppliers, who need to know the information or in the case of the Customer the Users where they need to know the information and are under obligations of confidentiality equivalent to those in this Agreement). This Section shall not apply to: any information that has been published other than through a breach of this Agreement; information lawfully in the possession of the recipient before the Effective Date; information obtained from a third party who was free to disclose it; information that is required by law to be disclosed; and information that a Party is required to disclose by law, provided that prior to such disclosure, to the extent permitted by law, the other Party is consulted as to the proposed form, nature and purpose of the disclosure. The obligations of confidentiality contained in this section will remain in effect for one (1) year after the termination of this Agreement.
- 23. INTELLECTUAL PROPERTY RIGHTS.** Except for rights expressly granted under this Agreement, nothing in this Agreement will function to transfer any of either Party's Intellectual Property Rights to the other Party, and each Party will retain exclusive right and interest in, and ownership of, its Intellectual Property. Customer shall not, without MCA's prior written consent, copy, decompile or modify the Software, nor copy any Documentation (except as permitted by law). Customer shall not acquire title to any Intellectual Property Rights in the Subscription Services or associated with the provision of the Subscription Services; Confidential Information or any other documents, assets, designs, software or data supplied by MCA as part of the Subscription Services; nor any third-party Intellectual Property Rights used in the provision and performance of the Subscription Services. MCA grants to Customer for the Term a nonexclusive, nontransferable, nonsub licensable license to use the Documentation, together with any Licensed Product, provided pursuant to the Subscription Services, to the extent that it is able to do so and is necessary to enable the Customer to use the Subscription Services.
- 24. ASSIGNMENT.** Neither party may assign, novate, transfer, or otherwise dispose of any of its rights or obligations under this Agreement, without the written consent of the other, such consent not to be unreasonably withheld or delayed. MCA may subcontract to any third party such obligations as it deems necessary to perform one or more parts of the Subscription Services. Customer understands that if MCA breaches contract the Service Provider may but is not required to assume this contract and/or assign this contract to an alternative servicer.
- 25. ENTIRE AGREEMENT.** This Agreement together with the relevant Order Form(s) comprises the entire agreement between the Parties related to its subject matter and supersedes all previous written or oral agreements relating to its subject matter. The Parties acknowledge and agree that this Agreement has not been entered into wholly or partly in reliance on, nor has either Party been given, any warranty, statement, promise or representation by the other or on its behalf, other than as expressly set out in this Agreement. Any person who is not party to this Agreement has no rights to enforce any term of this Agreement. If any provision of this Agreement is held invalid, illegal, or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed, and the remainder of its provisions will continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provision omitted.
- 26. NOTICES.** Notices to a Party under this Agreement shall be in writing to the address or email specified on the signature page to this Agreement for such Party, and may be delivered by hand, by nationally recognized overnight courier, by email or sent by first class registered or certified mail, return receipt requested postage prepaid. Notices sent in accordance with this section shall be deemed effectively given: (a) when received, if delivered by hand (with written confirmation of receipt); (b) when received, if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail (in each case, with confirmation of transmission), if sent during normal business hours of the recipient, and on the next Working Day, if sent after normal business hours of the recipient; or (d) on the 5th day after the date mailed, if sent by certified or registered mail, return receipt requested, postage prepaid.
- 27. COMPLIANCE WITH APPLICABLE LAWS.** Customer acknowledges and agrees that this is an evolving technological area and therefore, laws and regulations regarding Subscription Services and use of the Solution may change. Changes to existing Subscription Services or Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the Charges for additional products and services. Customer will comply with all applicable federal, state, provincial, and local laws, regulations, and rules concerning use of the Equipment. Further, Customer will comply with all applicable export and import control laws and regulations in their use



**28. DISPUTE RESOLUTION.** Either Party may call a meeting of the Parties by service of not less than thirty (30) days' written notice to resolve any disputes or disagreements relating to this Agreement or any Order Form and each Party agrees that its authorized representatives shall attend all such meetings. The authorized representatives and others attending the meeting shall use all reasonable endeavors to resolve disputes arising out of this Agreement. If the Parties fail to resolve the dispute in the allotted time, the Parties may within that period on the written request agree in writing to enter an Alternative Dispute Resolution Procedure with the assistance of a mediator agreed by the Parties. Recourse to this Alternative Dispute Resolution Procedure shall be binding on the Parties as to submission to the mediation but not as to its outcome. Accordingly, all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the Parties in any future legal proceedings. Except for any Party's right to seek injunctive relief in the courts, no Party may commence other legal proceedings under the jurisdiction of the courts until fifteen (15) days after the Parties have failed to reach a binding settlement by mediation. If, with the assistance of the mediator, the Parties reach a settlement, such settlement shall be reduced to writing and, once signed by a duly authorized representative of each of the Parties, shall become binding on the Parties. The Parties shall bear their own legal costs of this Alternative Dispute Resolution Procedure, but the costs and expenses of mediation (exclusive of attorney's fees) shall be borne by the Parties equally. Any mediation will take place in Madison County, Alabama.

**29. GOVERNING LAW AND JURISDICTION.** This Agreement and all disputes arising out of or in connection with this Agreement whether in contract, tort (including negligence), breach of statutory duty or otherwise shall be governed by the laws of the state of Alabama. Subject to first complying with Dispute Resolution, the Parties submit to the exclusive jurisdiction of the courts Alabama to settle any dispute arising out of or in connection with this Agreement whether in contract, tort (including negligence), breach of statutory duty or otherwise.

**MOBILE COMMUNICATIONS AMERICA, INC.**

Signature  
Name: Stephen Woodham  
Title: VP  
Date: 3/4/2025  
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