

Radio Technology Bulletin Associated Document

Identifier/Title:	RTB009-01	PA-STARNet User Agreement				
Associated RTB:	System Use Outside Commonwealth Government					
Document Type:	<input type="checkbox"/> APP	<input type="checkbox"/> FRM	<input type="checkbox"/> GEN	<input type="checkbox"/> OPD	<input checked="" type="checkbox"/> RFD	<input type="checkbox"/> WHP

Document identifier for Associated Documents (ADs) is RTB identifier, followed by two-digit sequence across documents associated with a specific RTB, separated by an en-dash. Valid supporting document types:

APP = Appendix

GEN = General Information

RFD = Referenced Document

FRM = Form

OPD = Operations Document

WHP = White Paper

Record of Changes

Ver.Rel	Issue date	Revised by	Status	Description
1.0	8/28/2008	J Seefeldt	Downlevel	Original issue
1.1	2/2/2009	J Seefeldt	Downlevel	Rename from "USE009-01".
1.2	11/10/2009	J Seefeldt	Published	Replace reference to Tyco Electronics with "Harris Corporation."

Purpose

This document supports the associated Radio Technology Bulletin (RTB) by showing terms and conditions that are typical of the form of agreement for use of the Pennsylvania Statewide Radio Network (PA-STARNet) by organizations outside Commonwealth government.

Content

Following are provisions typical of the agreement for use of PA-STARNet by organizations outside Commonwealth government. Placeholders are set off with square brackets:

This agreement entered into this _____ day of _____ 20____, by and between [Using Organization], with its principal place of business at [Street Address], [City], [State] hereinafter referred to as "User," and the Commonwealth of Pennsylvania acting by and through the Office of Administration, hereinafter referred to as "Commonwealth."

WHEREAS, the General Assembly has authorized Commonwealth to develop, manage, and maintain a wireless communications network known as the Pennsylvania Statewide Radio Network (PA-STARNet), hereinafter referred to as "Network," throughout the Commonwealth; and

WHEREAS, User would like to connect to and use the Network; and

WHEREAS, User is an organization that meets all criteria for use of the Network, that is not an agency of the Commonwealth of Pennsylvania, and whose jurisdiction or area of operation is countywide or smaller; and

Commonwealth of Pennsylvania
Governor's Office of Administration
Public Safety Radio Technology Bulletin

WHEREAS, the use of the Network by User is consistent with Commonwealth's development, management, and maintenance of it.

NOW, THEREFORE, in consideration of the promises, agreements, covenants, and undertakings contained herein and other valuable consideration, the parties hereto mutually agree as follows:

1. In consideration of the quarterly usage fee beginning [Start Date], User shall have a license to connect to and use the Network, subject to the terms set out below.
2. User shall gain access to the Network through the purchase of subscriber units from Harris Corporation and such other vendors of compatible equipment authorized by the Commonwealth. No other means of connection is allowed.
3. User agrees to pay Commonwealth a usage fee of [Amount, spelled out] dollar(s) ([Amount, spelled out]) per user per month, payable quarterly in advance, for a maximum of [Maximum number of users, spelled out] ([Maximum number of users, numeric]) users.
4. User acknowledges that Commonwealth makes no warranties, express or implied, concerning the network, including but not limited to, its ownership, merchantability, or fitness for a particular service. Commonwealth shall not be liable for any direct, consequential, punitive, or other damages suffered by user or any other entity or person resulting from the use of the network.
5. User agrees to use the Network at its own risk.
6. User agrees to observe all applicable policies and procedures for use of Network published by Commonwealth, including the requirement to refrain from deploying any data application using Network without prior review and approval of Commonwealth.
7. User understands that the services provided by Commonwealth can be interrupted for several reasons. These include, but are not limited to, malfunctions, maintenance, and improvements as required to protect Network resources in the event of malfunctions or misuse. Whenever possible, the Commonwealth shall provide advance notice to the User of scheduled system maintenance and interruptions. User understands, however, that it may not be possible for it to receive advance notice of any such interruption of service. Commonwealth shall not be liable for any delay in or failure to perform the services caused by circumstances beyond its control such as those occasioned by other entities, acts of God, terrorism, or other causes, or which it could not have reasonably foreseen, or any other cause that similarly impedes the providing of service. It is understood, however, that if the Network is unavailable for a period in excess of two weeks, Commonwealth will credit User with an amount equivalent to the value of the period for which no service was available. The credit will be subtracted from the amount due for the next quarter.
8. As a user of the Network, User is not permitted to use it to sell or advertise goods or services. Use is limited to governmental or quasi-governmental

Commonwealth of Pennsylvania
Governor's Office of Administration
Public Safety Radio Technology Bulletin

purposes consistent with Commonwealth's Federal Communications Commission (FCC) licenses for operation of the Network.

9. The term of this Agreement shall commence on the date of execution and remain in effect for a period of fifteen (15) years thereafter, unless terminated by either the Commonwealth or User prior to the end of the term of the Agreement. This Agreement may be renewed with the mutual consent of User and Commonwealth for one (1) fifteen-year period. This consent can be evidenced by a letter from one party to the other, which is countersigned by the other party. A formal amendment to the agreement is not required to extend it.
10. Commonwealth may, in addition to its other rights under the Agreement, declare the User in default by written notice thereof to the User, and may terminate the Agreement immediately for the User's breach of any of the terms of the Agreement.
11. Commonwealth may terminate this Agreement for its convenience, if it determines that termination is in its best interest, by providing the User with ninety (90) days notice of its intent to so terminate. User may terminate this Agreement for its convenience by providing the Commonwealth with [Period, spelled out] ([Period, numeric]) days notice of its intent to terminate.
12. User shall not subcontract or assign this agreement without the prior written consent of Commonwealth, which consent may be withheld at the sole and absolute discretion of Commonwealth.
13. This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the Commonwealth of Pennsylvania, without regard to any conflict of the provisions of those laws.
14. The Agreement, including all referenced documents, constitutes the entire Agreement between the parties. No agent, representatives, employee, or officer of either Commonwealth or the User has the authority to make, or has made, any statement, agreement, or representation, oral or written, in connection with the Agreement, which in any way can be deemed to modify, add to, or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Agreement. No modifications, alternations, changes, or waiver to the Agreement or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties.
15. Commonwealth reserves the right to review and approve or disapprove any software that User proposes to use that interfaces with the Network in any way.
16. User is permitted to connect the number of subscriber units to the Network set forth in Paragraph 3 above, provided, however, that Commonwealth reserves the right to limit the number of subscriber units if it determines, in its sole discretion, that insufficient capacity exists to support the number of subscriber units proposed to be connected by User.
17. In the event of an emergency, as determined by Commonwealth, Commonwealth reserves the right to interrupt all usage of the Network by User. Except as set out

Commonwealth of Pennsylvania
Governor's Office of Administration
Public Safety Radio Technology Bulletin

in Paragraph 8 above, Commonwealth shall not be responsible for any costs incurred by User as a result of the interruption.

18. Commonwealth assumes all risks and liabilities for injury to or death of any person or damage to any property, in any manner arising out of possession, use, or operation of the property by Commonwealth whether such injury or death be with respect to agents or employees of Commonwealth or of third parties, and whether such property damage be to Commonwealth's property or the property of others; provided, however, that said damage or injury results from the negligence of Commonwealth, its agents, or employees, and provided that judgment has been obtained against Commonwealth. This provision shall not be construed to limit the sovereign immunity of Commonwealth.
19. User assumes all risks and liabilities for injury to or death of any person or damage to any property, in any manner arising out of possession, use, or operation of the property by User whether such injury or death be with respect to agents or employees of User or of third parties, and whether such property damage be to User's property or the property of others; provided, however, that said damage or injury results from the negligence of User, its agents, or employees, and provided that judgment has been obtained against User. This provision shall not be construed to limit the sovereign immunity of User.
20. If the system is unavailable when this agreement is fully executed, the only remedy available to User is postponement of the first usage payment. The first usage payment is due on the first day of the first month following the availability of the system.
21. Commonwealth makes the system available to User under the following conditions:
 - 21.1. Commonwealth grants to User radio frequency and wire-line control access to the Network as allowed for in any FCC Rules applicable to this Agreement. User is permitted voice and data communications through the Network between mobile units, and from mobile units to control stations and wired dispatch points.
 - 21.2. Commonwealth is responsible for the funding and maintenance of the facilities licensed to the Commonwealth and the equipment owned by the Commonwealth that is part of the Network.
 - 21.3. Commonwealth is responsible for all FCC licensing of Commonwealth facilities, including obtaining any necessary waivers or other FCC authority for any entities that may seek to use facilities licensed to the Commonwealth in order to participate in the Network, and that are not authorized under the FCC Rule Waiver.
 - 21.4. In determining issues of access priority involving User and other participating entities, Commonwealth will provide User equal priority access to all Network frequencies on a routine basis. For emergency purposes, User and Commonwealth acknowledge that particular users may receive priority access for system resources throughout an identified emergency. The determination of user priority during an identified emergency is at the sole discretion of Commonwealth.

Commonwealth of Pennsylvania
Governor's Office of Administration
Public Safety Radio Technology Bulletin

22. This Agreement does not constitute agreement to allow physical access to any part of the Network, but merely provides for usage of the Network.
23. Commonwealth reserves two of the available sixteen (16) talk group profiles in each of User's radio personalities for common public safety interoperability talk groups to be defined and managed by Commonwealth. User will include the common interoperability talk group profiles in any radio personality defined for its use.

Questions

Any questions about this document are to be directed by e-mail to RA-RadioPolicy@state.pa.us.