



ND Department of Emergency Services

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"Ensuring a safe and secure homeland for all North Dakotans"

MEMORANDUM OF AGREEMENT BETWEEN NORTH DAKOTA DIVISION OF STATE RADIO AND FLOW MOBILE

SUBJECT: Memorandum of Agreement for Operating in the North Dakota Licensed 700 MHz Spectrum

1. This memorandum of agreement is for the authorization to use North Dakota Licensed Frequency 769.0000 – 775.0000 MHz. By virtue of signing this MOA, Flow Mobile affirms its willingness to comply with the proper operation of the Interoperability (interoperability) channels as dictated by the State Interoperability Executive Committee (SIEC) as approved by the Federal Communications Commission (FCC) and by the conditions of this MOA.
2. The purpose of this MOA is for demonstration only; North Dakota agrees not to charge Flow Mobile for its use of said frequencies and Flow Mobile agrees not to use this MOA for profit.
3. Flow Mobile shall abide by the conditions of this MOA which are as follows:
 - a. To operate by all applicable Federal, State, County and City laws/ordinances.
 - b. To utilize "plain language" for all transmissions.
 - c. To monitor the Calling Channel(s) and coordinate the use of the Tactical Channels.
 - d. To identify inappropriate use and mitigate the same from occurring in the future.
 - e. To mitigate contention for channels by exercising the Priority Levels identified in this MOA.
 - f. To follow all waivers/conditions in the state of ND frequency license.
4. The preceding conditions are the primary, though not complete, requirements for operating in the interoperability channels.
 - a. Priority Levels:
 - 1) Disaster or extreme emergency operation for mutual aid and interagency communications;
 - 2) Emergency or urgent operation involving imminent danger to life or property;
 - 3) Special event control, generally of a preplanned nature (including

John Hoeven
Governor

Major General David Sprynczynatyk
Director – Department of Emergency Services

Greg M. Wilz
Director - Division of Homeland Security

Mike Lynk
Director - Division of State Radio

Public Safety Task Force operations);

4) Single agency secondary communications (default priority).

5. To resolve contention within the same priority, the channel should go to the organization with the wider span of control/authority. This shall be determined by the State Interoperability Executive Committee for the operation or by the levels of authority/government identified in the contention.

6. For clarification purposes and an aid to operate as authorized, any fixed base or mobile relay stations identified on the license for temporary locations (FCC stations class FBT or FB2T, respectively) shall remain within the licensed area of operation. Similarly, vehicular/mobile repeater stations (FCC station class MO3) shall remain within the licensed area of operation. Federal agencies are permitted access to interoperability channels only as authorized by 47 CFR 2.102(c) and 2.103 and Part 7.12 of the NTIA Manual.

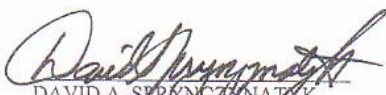
7. Any violation of this MOA, the ND Statewide Communications and Interoperability Plan, or FCC Rule shall be addressed immediately. The first level of resolution shall be between the parties involved, next the State Interoperability Executive Committee, and finally the FCC.

8. North Dakota State Radio and Flow Mobile each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this MOA.

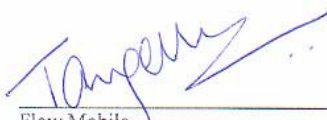
9. This MOA is in effect as of July 1, 2009 and will expire January 31, 2010.

10. If the terms of the MOA are violated, either party may terminate the MOA immediately upon written notice to the other party.

Given under our hands on the dates set forth:


DAVID A. SPRYNCZNATSKY
Major General, ND National Guard
The Director of the Department of
Emergency Services

Date: July 1, 2009


Flow Mobile
President & CEO

Date: July 6, 2009