

Equipment Maintenance Agreement

V04.16

THIS TERM AGREEMENT (hereinafter the "Agreement") is made by and between Horry Telephone Cooperative, Inc., having an office at 3480 Highway 701 North, Conway, South Carolina 29526 (hereinafter collectively HTC) and Customer (Customer name indicated on the executed Services Detail Agreement). For the purposes of this Agreement, Service address and billing address of Customer are indicated on the executed Services Detail Agreement.

WHEREAS, HTC is in the business of providing communications services (hereinafter collectively referred to as "Services") and communications equipment (hereinafter collectively referred to as "Equipment").

WHEREAS, the Customer desires to acquire access to the Services on the terms and conditions hereinafter provided.

NOW, THEREFORE, in consideration of the premises, and for good and valuable consideration, their receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I. Service Specifications.

- 1.1. Service Details. HTC shall provide Customer Maintenance on the Equipment specified in the Service Detail Agreement referenced under Hosted Equipment Covered Under Maintenance located in Attachment D - Hosted PBX Purchase. This maintenance service includes necessary adjustments and replacement of broken or faulty parts due to normal wear and tear, in order to provide proper operation of the system.
- 1.2. Term. The Term of this Agreement begins on the date that service installation shall be deemed complete and the Service is operational unless noted by Customer that service is not operational and will continue for the Term indicated on the Service Detail Agreement.
- 1.3. Renewal. At the end of the original term, unless renewed for a new term, both Customer and HTC agree that the charges for service will be based on the then current month to month / unbundled rate for equivalent service unless either party gives written notice of its request to renew and both parties enter in to a new term Agreement. A new Agreement will be based on new rates without consideration to previous charges prior to the expiration of the previous term.
- 1.4. Special Service Arrangements. HTC does not provide training, consultation services, software/hardware configuration or enhanced service reliability unless otherwise specified in this Agreement.

ARTICLE II. Charges and Payment.

- 2.1 Service Fees. Customer agrees to pay HTC Monthly Recurring Service Fees indicated on the Services Detail Agreement for which services are applied.
- 2.2 Billing. HTC will invoice Customer following the service commencement date, payable upon receipt, for the Installation Fee and the Service Fee for the initial billing interval. All subsequent Service Fees shall be invoiced in advance of the service month.
- 2.3 Moves, Adds and Changes (MACS). Any service work performed after the initial installation and setup, not covered in this Agreement or the Services Detail Agreement, will be billed at the then current standard hourly rate for such service work, with a one (1) hour minimum. The HTC Business Schedule can be found in Article VI, Section 6.1. Holidays and non-business hours will be billed in accordance to the schedule below:

	Multiplier:
Business Hours	<i>Standard Hourly Rate</i>
After Hours	<i>1.5 times Standard Hourly Rate</i>
Weekends and Holidays	<i>3 times the Standard Hourly Rate</i>

- 2.4 Taxes. Sales and use taxes and all other taxes and levies (excluding those based upon HTC income) which are applicable to this Agreement and the provision of Services hereunder shall be borne by Customer (and added to the applicable Service Fee), regardless of whom the taxes or levies are or were imposed upon.
- 2.5 Additional Installation & Maintenance Services. HTC shall relocate, rearrange, add to, or remove Equipment only at the request of Customer who agrees to pay appropriate charges in accordance with the HTC's then current rates for such services. Equipment not included in "items covered" and or installed subsequent to the beginning of service under this Agreement shall NOT be considered part of

Equipment for purposes of defining HTC's responsibility under this Agreement. Additional equipment added to Equipment to be covered under this Agreement will be added to the then existing monthly maintenance charge, at the prevailing rate, unless otherwise specified. HTC agrees to supply required maintenance to such additional equipment that qualifies according to HTC's standards at the prevailing rate; Customer agrees that the maintenance charges described herein shall be increased for the balance of the agreement period in accordance with HTC's then current rates applicable to the additional equipment.

ARTICLE III. Maintenance Specifications.

- 3.1 Service and Standards. For the purposes of this Agreement the term "Maintenance" is defined as work done by HTC to repair, replace or modify equipment as required to provide continued service in accordance with manufacturers specifications. HTC, in accordance with these standards, will maintain and provide service(s) as outlined:
 - a) Manufacturer's parts or parts of equal quality will be used
 - b) Routine repair and maintenance procedures prescribed by manufacturer will be followed
 - c) Qualified personnel will provide all maintenance work
- 3.2 Requirement Standards. Customer shall keep Equipment covered under this Agreement, including hardware and software, to the current required levels as described by HTC. These levels will be based on current manufacture requirements or technical support requirements as described to keep the Equipment up-to-date and serviceable. Customer shall maintain all manufacturer support available on Equipment as described by HTC. The cost of software or hardware upgrades and manufacturer support as described above will solely be the responsibility of Customer, including labor at the then described rate and all parts required by the manufacturer. HTC in its sole discretion shall provide Customer a 30 day notice of cancellation of service for failure to purchase required upgrades. This cancellation may be in whole or in part of items covered under this Agreement.
- 3.3 Remote Diagnosis. Customer agrees to supply and provide access (dial in or web access) to a remote device such as modem or IP access center that complies Equipment standards. HTC acknowledges and agrees that such access may be conditional upon compliance by HTC with Customers security requirements or other terms deemed necessary by Customer. On a case-by-case, mutually agreeable basis, HTC may consider Remote Access an appropriate response.
- 3.4 Interruption of Service & Maintenance Work. Customer shall notify HTC through its normal repair facilities in the event of any failure. HTC shall provide maintenance service in accordance with its normal operating procedure. Maintenance work shall be performed at the location of Equipment (or at the HTC location, as appropriate). HTC's normal working hours for purposes of this Agreement are 8:00 a.m. to 5:00 p.m., Monday through Friday, except Holidays. Services performed due to Customer's operational requirements, outside the aforesaid normal working hours, will be billed in accordance to HTC's standard after-hours time and material rates or as defined in Service Call Levels.
 - a) Service Call Levels: Agreement Priority Level dictates the following responses by HTC.
 - b) Major Outage (Critical): Outage that would prevent Equipment operations of 50% or more of service. Response within four "4" hours 24 / 7 from notification by Customer.
 - c) Minor Outage (Sensitive): Outage of system that would prevent Equipment operations of 25% or more of service. Same day response from notification by Customer.
 - d) Minor Repair: Needed repair or adjustment that is not mission critical to the operation of Equipment. 24 hour or "1" business day response from notification by Customer.

ARTICLE IV. Expectations.

- 4.1 Exceptions. This maintenance service does not cover labor or equipment made necessary by carelessness or tampering on the part of Customer's employees or agents, misuse, or by accident, or hazards such as storms, wind, fire, lightning or other like acts of God, contingency or catastrophe. Customer agrees to carry adequate insurance on said equipment to cover such losses. HTC shall not be responsible for failure to render services beyond its control. This Agreement DOES NOT include inside wiring. Data equipment, battery backups (UPS) or analog devices, such as analog phones and fax machines, are not part of this agreement unless listed below. Computers for call accounting or other uses, printers or other devices not associated with providing voice communications, are not covered under this agreement unless listed below.
- 4.2 Non-Maintenance Items. Customer acknowledges the following services are not covered: Any equipment, software or devices added to Equipment under this Agreement by someone other than HTC shall not be covered and at HTC's sole discretion, may terminate this Agreement and any liabilities. Any customization of hardware or software updates provided to the customer, other than by HTC. Support or replacement of products that are: altered, modified, mishandled, destroyed or damaged by natural causes

or damaged during unauthorized use. Services to resolve hardware or software non-conformities resulting from use of the Equipment in conjunction with a third party Product or causes beyond HTC's control. A UPS (Battery Back-up) is not a part of this Agreement and maintenance will not be applicable for any power related troubles. Power issues, including but not limited to power failure and power surges, could result in the loss of service, programming or equipment; as a result, all work will be invoiced on a time and material basis at the no maintenance labor rate, which is currently \$120 per hour, but subject to change without prior notice.

- 4.3 Interfacing with Third Parties. HTC will work with third party service companies for interfacing of Equipment where applicable. All charges associated with any service call including labor, time charges or equipment required, will be the sole responsibility of Customer. This will include the additions of lines or services provided by local service providers or long distance carriers. These charges related to the above service will be within the HTC normal per hour rate, plus any charges for overtime or holiday hours without regard of service provider. This is to include troubleshooting, isolation, testing and reporting of central office lines, circuits and long distance services. If any faults are isolated to Equipment covered, there is no charge. Also, if during the troubleshooting process the problem is defined as defective wire or cable for voice or data connectivity that would be considered inside wire, unless listed as a covered item of this Agreement, or telephone company cable not provided by HTC, Customer will be responsible for all charges associated with the service call. HTC cannot bill a third party vendor.

ARTICLE V. Termination.

- 5.1 Termination. If at any time after the commencement of service under this Agreement, repair or maintenance is performed on Equipment by any persons other than HTC authorized representatives, HTC shall have the right to determine if such work has increased the cost of further maintenance to be performed. In addition, if any equipment or software is added to Equipment not in conjunction with HTC, at its sole discretion, HTC shall have the right to terminate this Agreement by giving Customer thirty (30) days written notice. HTC shall notify Customer in writing of its determination with relation to any adjustment that must be made, and if no agreement can be reached on the adjustment hereto, HTC may, at its option, terminate this Agreement by giving Customer thirty (30) days written notice.
- 5.2 Termination Charge. HTC and Customer agree that in consideration for termination, charges will be based on Pricing referenced in Service Detail Pricing in correspondence with the Service Agreement and any applicable Addendums. In the event of termination of services prior to fulfilling term of Agreement by Customer (including temporary suspension of service), Customer agrees to pay A) fulfill remaining balance of term in full within 30 days of cancellation, B) reimburse HTC any charges for labor (which will be based on the then current non-maintenance labor rate) and materials associated with HTC performing maintenance on Equipment from date of last payment to date of termination of Agreement.

ARTICLE VI. Liabilities and Warranties.

- 6.1 Disclaimer of any Warranty. Customer agrees that their access to and use of Equipment and services is at Customer's own risk. Neither HTC nor its subsidiaries, shareholders, members, officers, directors, employees, affiliates, agents or subcontractors warrant or offer warranties of any kind, either express or implied, that the service of Equipment will be uninterrupted or error-free; nor do they make any warranty as to the results that may be obtained from the use of Equipment or as to the accuracy or overall reliability of Equipment.
- 6.2 Liability Limitation. In no event will HTC nor its subsidiaries, shareholders, members, officers, directors, employees, affiliates, agents or subcontractors be liable to Customer or any third party for any incidental, indirect, special or consequential damages (even if advised of the possibility of such damages), arising out of Customer's use or inability to access services, including without limitation, loss of revenue or anticipated profits, loss of goodwill, lost business, lost data, computer failure or malfunction or any and all other damages or losses that result from mistakes inaccurately entered data, unauthorized use, omissions, interruptions, errors, defects, delays in operation, or any failure of performance, whether or not limited to acts of God, communications failure, theft, destruction or unauthorized access to records, programs or services including long distance access. Customer and HTC understand and agree that the foregoing limitations of liability represent a reasonable allocation of risk to Customer and not HTC.
- 6.3 Indemnification. Customer, Customer's parent company if any and all Customer's agents, including but not limited to its subsidiaries, shareholders, members, and officers, agree to indemnify, defend and hold harmless HTC, its subsidiaries, shareholders, members, officers, directors, employees, affiliates, agents, or subcontractors from and against all losses, expenses, damages and costs, including reasonable attorney's fees, resulting from any violation of this Agreement or any activity related to the use of the equipment or services associated with Equipment, any activity associated to the repair, maintenance or

service of any Equipment included in this Agreement, by Customer or any other person or company having access to Equipment or services associated with Equipment.

- 6.4 Disclaimer of Nortel Systems. All Norstar systems are now End of Life. HTC may be required to contact Norstar Technical Support for certain maintenance/repair issues and this contact will be at the HTC technician's discretion. Norstar Technical Support will impose a mandatory tech service fee, which will be passed on to Customer.

ARTICLE VII. Miscellaneous Provisions.

- 7.1 Amendment. This Agreement may be amended from time to time only in writing executed by the parties hereto with the same formality attending the execution of this Agreement. Once an amendment or modification becomes effective in such manner, it shall be deemed to be included thereafter in all references herein to the Agreement.
- 7.2 Notices. All notices or other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be mailed by first class mail, certified or registered, postage prepaid or sent via a nationally recognized overnight courier (e.g., FedEx) to the other party at the billing address set forth on the first page of this Agreement. Notices are deemed received by a party when the party or its agent receives such Notice. Any party may change its address by giving notice in writing stating its new address to the other party.
- 7.3 Governing Law. This document shall be governed by and construed in accordance with the laws of the State of South Carolina.
- 7.4 Binding, Benefit. This Agreement constitutes the entire agreement and understandings among the parties. All previous discussions, promises, representations and understandings among the parties relative to this Agreement, if any, are superseded by this Agreement. This Agreement shall bind and benefit the parties and their respective successors and assigns, regardless of whether such successors and assigns agree to be bound by the Agreement.
- 7.5 Successors and Assigns. This Agreement shall bind and benefit the parties and their respective successors and assigns, regardless of whether such successors and assigns expressly agree to be bound by the Agreement.
- 7.6 Headings. The headings in this Agreement are for convenience only and are not to be used in construing this Agreement.
- 7.7 Non-Solicitation. Each party agrees that, during the term of this Agreement and for a period of one year following the termination or expiration of this Agreement, it will not directly or indirectly solicit or induce any employee of the other party or its Affiliates to terminate or negatively alter his or her relationship with the other party or its Affiliates. If any restriction set forth in this Section is found by any court of competent jurisdiction to be unenforceable because it extends for too long a period of time or over too great a range of activities or in too broad a geographic area, it shall be interpreted to extend only over the maximum period of time, range of activities or geographic area as to which it may be enforceable.