

PRIMARY AGREEMENT

DINWIDDIE COUNTY
PUBLIC SAFETY RADIO COMMUNICATION SYSTEM

The Agreement (“Primary Agreement”) is made this _____ day of March 2020, by and between **Motorola Solutions**, Inc. of 809 Pinnacle Drive, Suite G, Linthicum Heights, Maryland 21090 (hereinafter known as “Contractor” or “Motorola”), and the **County of Dinwiddie**, Virginia (and hereinafter known as “County” or “Customer”).

WHEREAS, pursuant to the Virginia Public Procurement Act, County solicited proposals for a new Public Safety Radio Communication System; and

WHEREAS, Contractor submitted a proposal for same, consistent with the specifications in the Request for Proposals; and

WHEREAS, Contractor was selected as having the best proposal and best value; and

WHEREAS, County has selected Contractor to provide a new Public Safety Radio Communication System (hereinafter “System”);

NOW THEREFORE, in consideration of the mutual benefits, promises, and undertakings, the sufficiency and receipt of which are acknowledged, the following terms and conditions are agreed by the parties to this Primary Agreement:

1. **Incorporation by Reference.** The following are made a part hereof as if the same were fully set forth herein, and if any discrepancies arise between the documents, they will prevail in the following order: (1) this Primary Agreement, (2) all Addenda and Exhibits of this Primary Agreement other than the Request for Proposals # 19-061919 including any addenda thereto, and (3) the Request for Proposals # 19-061919 including any addenda thereto. This Primary Agreement, including all Addenda and Exhibits, constitute the entire agreement of the Parties regarding the System described herein and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this System. This Primary Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase order, acknowledgment or other form will not be considered an amendment or modification of this Primary Agreement, even if a representative of each Party signs that document.

This procurement is governed by the Virginia Public Procurement Act and the Dinwiddie County Purchasing Policies and Procedures. All directly applicable terms and conditions required in the RFP and governed by the Act and the Policies and Procedures identified in the RFP are hereby adopted and incorporated by reference herein.

2. **Time of Performance.** Contractor agrees to complete all work and provide all equipment based on the Proposed Project Schedule included as part of *Motorola’s Updated Proposal and Technical Documentation* dated February 20, 2020 (Exhibit 3). Final Project Schedule will be provided after completion of the Detailed Design Review.
3. **Term of Contract.** After Final System Acceptance, the term of this contract shall be for ten (10) years (hereinafter the “Term”). Full System, subscribers, and system warranty will be for

Years 1-3. Post Warranty Maintenance and SUA (Years 4-10) will renew automatically each year after the County Board of Supervisors appropriates funds. If the County elects to terminate post warranty services for its convenience, the County will compensate Motorola for services rendered up to the date of termination. Changes or the termination of this Primary Agreement shall follow the process set forth in Subsections 9.22 (Changes) and 9.24 through 9.26 (Termination) of the RFP.

4. **Price.** Contractor agrees to perform all work and provide all equipment pursuant to this Primary Agreement for the sum of NINE MILLION FOUR HUNDRED FIFTY-SEVEN THOUSAND FIVE HUNDRED SEVEN AND 57/100 DOLLARS (\$9,457,507.57) plus a total of TWO MILLION NINE HUNDRED FOURTEEN THOUSAND THIRTEEN DOLLARS AND 14/100 DOLLARS (\$2,914,013.14) for Post Warranty Maintenance costs for Years 4 through 10 as outlined below and detailed in Exhibit 4 for a grand total of TWELVE MILLION THREE HUNDRED SEVENTY-ONE THOUSAND FIVE HUNDRED TWENTY AND 71/100 DOLLARS (\$12,371,520.71) (the “Contract Price”):

Year 4	\$443,849.72
Year 5	\$453,087.35
Year 6	\$462,898.96
Year 7	\$461,191.97
Year 8	\$470,831.74
Year 9	\$305,665.07
Year 10	<u>\$316,488.32</u>
Total for Year 4-10	\$2,914,013.14

A change in Software or Equipment quantities, or Services, may affect the overall Contract Price, including discounts if applicable. Post Warranty Maintenance cost may vary slightly based on equipment and service changes from initial purchase. **County shall be notified of such price changes at least ninety (90) days prior to start of the maintenance year.**

If annual inflation rate increases greater than 3% during the previous year, Motorola shall have the right to increase all future maintenance prices by the CPI (Urban Consumers CUURS35ASA0) increase amount exceeding 3%. Measurement will take place once the annual average for the new year has been posted by the Bureau of Labor Statistics. For purpose of illustration, if in Year 5 the CPI reported an increase of 8%, Motorola may increase the Year 6 price by 5% (8%-3% base).

5. **Approval to Proceed.** County affirms that a purchase order or notice to proceed is not required for contract performance or for subsequent years of service. Funds have been appropriated for the System, and the out-years of maintenance will be funded through operating budget subject to appropriations. The Customer will pay all invoices as received from Motorola and any changes in scope will be subject to the change order process as described in this Primary Agreement. At the time of execution of this Primary Agreement, the Customer will provide all necessary reference information to include on invoices for payment in accordance with this Primary Agreement.
6. **Invoices.** The County will make payments to Motorola within thirty (30) days after the date of each invoice. Motorola shall submit all invoices during System Installation to the County by the 2nd Wednesday of each month. Any requests for mutually agreed upon supporting

documentation will be requested by the County and provided by Motorola prior to the due date, and unless a discrepancy is noted, will not result in late payments. If the County has purchased additional Professional or Subscription Services, payment will be in accordance with the applicable addenda. During System Installation, invoices shall be paid per the following Payment Milestones:

#	System(Excluding Subscribers)	Percentage
1	Due upon Effective Date	20%
2	Due upon completion of Detailed Design Review (DDR)	25%
3	Due upon delivery of Fixed Network Equipment from Staging	25%
4	Due upon installation of equipment by site	20%
5	Due upon completion of Acceptance Testing (ATP and CATP) and approval by County	5%
6	Due upon Final Project Acceptance	5%
		100%
	Subscriber Equipment	
7	Due upon delivery of Mobile Radios	90%
8	Due upon programming and installation of Mobile Radios	10%
9	Due upon delivery of Portables	100%

Motorola shall make partial shipments of equipment and will request payment upon delivery of such equipment. In addition, Motorola shall invoice for installations completed on a site-by-site basis or when professional services are completed, when applicable. The value of the equipment delivered/services performed will be determined by the percentage of the total milestone value. Unless otherwise specified, contract discounts are based upon all items proposed and overall system package. For invoicing purposes only, the sum total of all System Discounts, Incentives and Credits (Tab C.1 of Pricing Sheets) will be applied proportionately to the Fixed Network Equipment and Subscriber equipment values milestone payments. Overdue invoices will bear simple interest pursuant to Virginia Code §2.2-4355.

All invoices for Post Warranty Maintenance shall be submitted in advance of each year.

All invoices are to be sent to: Accounts Payable, County of Dinwiddie, P.O. Drawer 70, Dinwiddie, Virginia 23841 or emailed to accounting@dinwiddieva.us. Payments shall be made to Contractor within thirty (30) days after receipt of invoice by the County. Payments will be made when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution. For reference, the Federal Tax Identification Number for Motorola is 36-1115800.

7. **Change Orders.** Either Party may request changes within the general scope of this Primary Agreement. If a requested change causes an increase or decrease in the cost or time required to perform this Primary Agreement, the Parties may agree to an equitable adjustment of the Contract Price or applicable subscription fees, Performance Schedule, or both, and may reflect the adjustment in a change order. Neither Party is obligated to perform requested changes unless both Parties execute a written change order. Change Orders shall be executed prior to any additional work being completed.
8. **Freight, Title, and Risk of Loss.** Motorola will pre-pay and add all freight charges to the invoices. Title and risk of loss to the Equipment will pass to Customer upon delivery. Title to Software will

not pass to Customer at any time. Motorola will pack and ship all Equipment in accordance with good commercial practices. Inventory will occur within 5 business days.

9. **Equipment Delivery Location.** The Contractor may deliver equipment to a designated County controlled facility and County shall be notified prior to actual delivery of equipment. In addition, the County designates Radio Communications of Virginia as an approved location for delivery of equipment.
10. **Notices.** Any notices required shall be in writing, unless otherwise permitted hereunder, and shall be deemed received five (5) days after mailing of same in the U. S. Mail with postage prepaid at the addresses set forth below or upon actual receipt by overnight courier:

<u>Notice to County shall be made to:</u>	<u>Notice to Contractor shall be made to:</u>
W. Kevin Massengill	Bruce Fryer
County Administrator	Motorola Solutions, Inc.
P. O. Drawer 70	809 Pinnacle Drive, Suite G
Dinwiddie, Virginia 23841	Linthicum Heights, MD 21090
(804) 469-4500	(301) 602-2361
accounting@dinwiddieva.us	b.fryer@motorolasolutions.com

11. **General Terms and Conditions.** During the term of this Contract, Contractor agrees to procure and maintain insurance per Exhibit 3.
12. **Counterparts.** This Primary Agreement may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signed signature pages may be transmitted by facsimile, electronic signature or as an attachment to an email, and any such signature shall have the same legal effect as an original. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Primary Agreement shall be treated as and shall have the same effect as an original signed copy of this document.
13. **Severability.** If any provision of this Agreement is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.
14. **Miscellaneous.** This Primary Agreement shall be governed by the laws of the Commonwealth of Virginia. Jurisdiction and venue for any litigation arising out of or involving this Primary Agreement shall lie in the Circuit Court of the County of Dinwiddie, Virginia, and such litigation shall be brought only in such courts. All pronouns used herein shall refer to every gender. Headings or titles in this Primary Agreement are only for convenience and shall have no meaning or effect upon the interpretation of the provisions of this Primary Agreement. This Primary Agreement is the entire agreement between the parties and may not be amended or modified, except by writing, signed by each party. If any provision of this Primary Agreement is determined to be unenforceable, then the remaining provisions of this Primary Agreement shall be interpreted as in effect as if such unenforceable provision were not included therein.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day first written above.

County of Dinwiddie, Virginia

Motorola Solutions, Inc.

X

W. Kevin Massengill
County Administrator

X

Print Name/Title:

Approved as to form:

Department Approval:

X

Legal Counsel

X

Dennis Hale
Chief of Fire & EMS

LIST OF ADDENDA AND EXHIBITS

Addendum A – Motorola’s Communications System and Services Agreement, including Exhibit 1, Motorola’s Software License Agreement

Addendum B – Motorola’s Maintenance, Support and Software Upgrades, including Exhibit 2, Software Support Policy

Addendum C – Motorola’s Subscription Services Agreement

Exhibit 1 – Motorola’s Software License Agreement

Exhibit 2 - Software Support Policy

Exhibit 3 – Motorola’s Updated Proposal and Technical Documentation dated February 20, 2020

Exhibit 4 – Motorola Final Price Sheet dated February 20, 2020

Exhibit 5 – System Acceptance Certificate

Request for Proposals #19-061919 including any addenda thereto

ADDENDUM A
Motorola's Communication System and Services Agreement

1. ATTACHMENTS

1.1. EXHIBITS. The Exhibits listed below are exhibits related to the System sale and implementation. These Exhibits are incorporated into and made a part of the Primary Agreement.

Exhibit 1 "Motorola Software License Agreement

Customer may elect to purchase professional or subscription services in addition to the System and related services. Any such services will be governed by the terms in the main body of the Primary Agreement and applicable Addenda and Exhibits containing terms and conditions specific to their applicable services. Such Addenda and Exhibits will be labeled with the name of the services being purchased.

1.3. ORDER OF PRECEDENCE. The terms of Addendum A will govern the products and services offered pursuant to the Primary Agreement. To the extent there is a conflict between the terms and conditions of Addendum A and Addenda B and C, Addenda B and C will govern the subject matter services set forth in Addenda B and C.

2. DEFINITIONS

Capitalized terms used in this Addendum A have the following meanings:

"Acceptance Tests" means those tests described in the Acceptance Test Plan.

"Addendum (Addenda)" is the title of the document(s) containing a specific set of terms and conditions applicable to a particular service or other offering beyond the Communication System and System implementation services. The terms in the Addendum are applicable only to the specific service or offering described therein.

"Administrative User Credentials" means an account that has total access over the operating system, files, end user accounts and passwords at either the System level or box level. Customer's personnel with access to the Administrative User Credentials may be referred to as the Administrative User."

"Beneficial Use" means when Customer first uses the System or a Subsystem for operational purposes (excluding training or testing).

"Confidential Information" means all information consistent with the fulfillment of this Primary Agreement that is (i) disclosed under this Addendum A in oral, written, graphic, machine recognizable, and/or sample form being clearly designated, labeled or marked as confidential or its equivalent or (ii) obtained by examination, testing or analysis of any hardware, software or any component part thereof provided by discloser to recipient. Confidential information that is disclosed orally must be identified as confidential at the time of disclosure and confirmed by the discloser by submitting a written document to the recipient within thirty (30) days after such disclosure. The written document must contain a summary of the Confidential Information disclosed with enough specificity for identification purpose and must be labeled or marked as confidential or its equivalent.

"Contract Price" means the price for the System and implementation Services, excluding applicable sales or similar taxes. Contract Pricing is detailed in Exhibit 4.

"Deliverables" means all written information (such as reports, specifications, designs, plans, drawings, analytics, Solution Data, or other technical or business information) that Motorola prepares for Customer in the performance of the Services and is obligated to provide to Customer under this Primary Agreement. The Deliverables, if any, are more fully described in the Statement of Work.

“Derivative Data” means data resulting from System Data that is or has been transformed, altered, processed, aggregated, correlated or operated on. Derivative Data does not include identifiable County confidential data.

“Derivative Proprietary Materials” means derivatives of the Proprietary Materials that Motorola may from time to time, including during the course of providing the Services, develop and/or use and/or to which Motorola provides Customer access.

“Effective Date” means the date upon which the last Party executes this Agreement and is printed on the first page of this Agreement.

“Equipment” means the hardware components of the Solution that Customer purchases from Motorola under this Agreement. Equipment that is part of the System is described in the Equipment List.

“Feedback” means comments or information, in oral or written form, given to Motorola by Customer in connection with or relating to Equipment or Services, during the term of this Agreement.

“Final Project Acceptance” means the Acceptance Tests, coverage testing, 30-day Operational Verification Period, and clearing of all punch lists has been completed and Customer has approved acceptance of the complete system.

“Force Majeure” means an event, circumstance or act that is beyond a Party’s reasonable control, such as an act of God, an act of the public enemy, an act of a government entity, strikes, other labor disturbances, supplier performance, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, riots, or any other similar cause.

“Motorola Software” means software that Motorola or its affiliated companies owns.

“Non-Motorola Software” means software that a party other than Motorola or its affiliated companies owns.

“Open Source Software” (also called “freeware” or “shareware”) means software with either freely obtainable source code, license for modification, or permission for free distribution.

“Proprietary Materials” means certain software tools and/or other technical materials, including, but not limited to, data, modules, components, designs, utilities, subsets, objects, program listings, models, methodologies, programs, systems, analysis frameworks, leading practices and specifications which Motorola has developed prior to, or independently from, the provision of the Services and/or which Motorola licenses from third parties.

“Proprietary Rights” means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by Motorola under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by Motorola or another party.

“Services” means – system implementation, maintenance, support, subscription, or other professional services provided under this Agreement, which may be further described in the applicable Addendum and Exhibits.

“Software” (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

“Software License Agreement” means the Motorola Software License Agreement (Exhibit 1).

“**Software Support Policy (SwSP)**” – the policy set forth at <http://www.motorolasolutions.com/softwarepolicy> describing the specific technical support that will be provided to Customers under the Warranty Period and during any paid maintenance support period for Motorola Software. Customer will be promptly notified of any changes to this policy. Changes in software support policy during the project, including contracted warranty and maintenance periods, that reduce services or contracted features and/or functions to the County purchased system shall require a change order and a negotiated monetary credit to the project.

“**Solution**” means the combination of the System(s) and Services provided by Motorola under this Agreement.

“**Solution Data**” means Customer data that is transformed, altered, processed, aggregated, correlated or operated on by Motorola, its vendors or other data sources and data that has been manipulated or retrieved using Motorola know-how to produce value-added content to data consumers, including customers or citizens which is made available to Customer with the Solution or Services.

“**Specifications**” means the functionality and performance requirements that are described in Motorola’s Updated Proposal and Technical Documentation (Exhibit 3).

“**SUA**” means Motorola’s Software Upgrade Agreement program.

“**Subsystem**” means a major part of the System that performs specific functions or operations. Subsystems are described in Motorola’s Updated Proposal and Technical Documentation (Exhibit 3).

“**System**” means the Equipment, including incidental hardware and materials, Software, and design, installation and implementation services that are combined together into an integrated system; the System(s) is (are) described in Motorola’s Updated Proposal and Technical Documentation (Exhibit 3).

“**System Acceptance**” mean the time at which Acceptance Tests have been successfully completed.

“**System Data**” means data created by, in connection with or in relation to Equipment or the performance of Services under this Agreement.

“**Warranty Period**” means for System Hardware, Software, or services related to system implementation means three (3) years from the date of Final Project Acceptance or Beneficial Use, whichever occurs first. Unless otherwise stated in the applicable Addenda and Exhibits, Warranty Period for other Services means ninety (90) days from performance of the Service. Notwithstanding the forgoing this Agreement includes 3 years of Warranty and 7 years of Maintenance (as defined in Exhibit 3).

3. SCOPE

3.1 SCOPE OF WORK. Motorola will provide, install and test the System(s), and perform its other contractual responsibilities to provide the Solution, all in accordance with this agreement. Customer will perform its contractual responsibilities in accordance with this agreement.

3.2 CHANGE ORDERS. As set forth in the Primary Agreement.

3.3 TERM. As set forth in the Primary Agreement.

3.4 ADDITIONAL EQUIPMENT OR SOFTWARE. For three (3) years after the expiration date of the Agreement, Customer may order additional Equipment or Software, if it is then available. Each purchase order must refer to this Primary Agreement, the expiration date of the Addendum, and must specify the pricing and delivery terms. The Parties agree that, notwithstanding expiration of the Addendum, the applicable provisions of this Addendum (except for pricing, delivery, passage of title and risk of loss to Equipment, warranty commencement, and payment terms) will govern the purchase and sale of the

additional Equipment or Software. Additional or contrary terms in the purchase order will be inapplicable, unless signed by both parties. Title and risk of loss to additional Equipment will pass upon delivery. Warranty will commence upon delivery and inventory within five (5) business days, and payment is due within thirty (30) days after the invoice date. Motorola will send Customer an invoice as the additional Equipment is shipped or Software is licensed. Alternatively, Customer may register with and place orders through Motorola Online (MOL) and this Agreement will be the “Underlying Agreement” for those MOL transactions rather than the MOL On-Line Terms and Conditions of Sale. MOL registration and other information may be found at <https://businessonline.motorolasolutions.com> and the MOL telephone number is (800) 814-0601.

- 3.5 **MOTOROLA SOFTWARE.** Any Motorola Software, including subsequent releases, is licensed to Customer solely in accordance with the Software License Agreement. Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.
- 3.6 **NON-MOTOROLA SOFTWARE.** Any Non-Motorola Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to Motorola the right to sublicense the Non-Motorola Software pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of the Licensor’s rights and protections under the Software License Agreement. Motorola makes no representations or warranties of any kind regarding Non-Motorola Software. Non-Motorola Software may include Open Source Software. Notwithstanding the forgoing Motorola is including a 3-year extended warranty as set forth in Exhibits 3 and 4 which shall commence upon Final System Acceptance.
- 3.7 **SUBSTITUTIONS.** At no additional cost to the Customer, Motorola may substitute any Equipment, Software, or services to be provided by Motorola, if the substitute meets or exceeds the Specifications and is of equivalent or better quality to the Customer. Any substitution shall require Customer review and approval prior to any substitution being made. Any substitution will be reflected in a change order.
- 3.8 **OPTIONAL EQUIPMENT OR SOFTWARE.** For the optional equipment that is quoted in Exhibit 4, the price is valid for three (3) years. Year one is as shown on the pricing sheets. For Years Two and Three Motorola reserves the right to adjust the price based on the CPI. This option will remain for a total of three (3) years after the Effective Date. Customer has the right and option to purchase the equipment, software, and related services that are described in the Priced Options exhibit. Customer may exercise this option by giving written notice to Seller which must designate what equipment, software, and related services Customer is selecting (including quantities, if applicable). To the extent they apply, the terms and conditions of this Agreement will govern the transaction; however, the parties acknowledge that certain provisions must be agreed upon, and they agree to negotiate those in good faith promptly after Customer delivers the option exercise notice. Examples of provisions that may need to be negotiated are: specific lists of deliverables, statements of work, acceptance test plans, delivery and implementation schedules, payment terms, maintenance and support provisions, additions to or modifications of the Software License Agreement, hosting terms, and modifications to the acceptance and warranty provisions.

4. SERVICES

- 4.1. If Customer desires and Motorola agrees to continue Services beyond the initial Term, Customer’s issuance and Motorola’s acceptance of a purchase order for Services will serve as an automatic extension of the Agreement for purposes of the continuing Services. Only the terms and conditions applicable to the performance of Services will apply to the extended Agreement.
- 4.2. During the Warranty Period, in addition to warranty services, Motorola will provide maintenance Services for the Equipment and support for the Motorola Software pursuant to the applicable maintenance and support Statements of Work. Support for the Motorola Software will be in accordance with Motorola’s established Software Support Policy. Copies of the SwSP can be found at <http://www.motorolasolutions.com/softwarepolicy>, attached as Exhibit 2 and will be sent by mail, email

or fax to Customer upon written request. Maintenance Services and support during the Warranty Period are included in the Contract Price. Unless already included in the Contract Price, if Customer wishes to purchase 1) additional maintenance or software support services during the Warranty Period; or 2) continue or expand maintenance software support, installation, and/or SUA services after the Warranty Period, Motorola will provide the description of and pricing for such services in a separate proposal document. Unless otherwise agreed by the parties in writing, the terms and conditions in this Agreement applicable to maintenance, support, installation, and/or SUA Services, will be included in the Maintenance and Support Addendum Exhibit, SUA Addendum or Exhibit, the applicable Statements of Work, and the proposal, (if applicable). These collective terms will govern the provision of such Services.

To obtain any such additional Services, Customer will issue a purchase order referring to this Agreement and the separate proposal document. Omission of reference to this Agreement in Customer's purchase order will not affect the applicability of this Agreement. Motorola's proposal may include a cover page entitled "Service Agreement" or "Installation Agreement", as applicable, and other attachments. These cover pages and other attachments are incorporated into this Agreement by this reference.

- 4.3. **PROFESSIONAL AND SUBSCRIPTION SERVICES.** If Customer purchases professional or subscription Services as part of the Solution, additional or different terms specific to such Service will be included in the applicable Addendum and Exhibits and will apply to those Services. Customer may purchase additional professional or subscription services by issuing a purchase order referencing this Agreement and Motorola's proposal for such additional services.
- 4.4. Any information in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer in providing Services under this Agreement or Motorola data viewed, accessed, will remain Motorola's property, will be deemed proprietary, Confidential Information This Confidential Information will be promptly returned at Motorola's request.
- 4.5. **TOOLS.** All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of providing Services under this Agreement will be and remain the sole property of Motorola. Customer will reasonably safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time. Upon termination of the contract for any reason, Customer shall return to Motorola all Motorola owned-equipment delivered to Customer.
- 4.6. **COVENANT NOT TO EMPLOY.** Reserved.
- 4.7. **CUSTOMER OBLIGATIONS.** If the applicable Statement of Work or Addendum contains assumptions that affect the Services or Deliverables, Customer will verify that they are accurate and complete. Any information that Customer provides to Motorola concerning the Services or Deliverables will be accurate and complete in all material respects. Customer will make timely decisions and obtain any required management approvals that are reasonably necessary for Motorola to perform the Services and its other duties under this Agreement. Unless the Statement of Work states the contrary, Motorola may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions and Customer-provided information, decisions and approvals described in this paragraph.
- 4.8. **ASSUMPTIONS.** If any assumptions or conditions contained in this Agreement, applicable Addenda or Exhibits prove to be incorrect or if Customer's obligations are not performed, Motorola's ability to perform under this Agreement may be impacted and changes to the Contract Price, subscription fees, project schedule, Deliverables, or other changes may be necessary.
- 4.9. **NON-PRECLUSION.** If, as a result of the Services performed under this Agreement, Motorola

recommends that Customer purchase products or other services, nothing in this Agreement precludes Motorola from participating in a future competitive bidding process or otherwise offering or selling the recommended products or other services to Customer. Customer represents that this paragraph does not violate its procurement or other laws, regulations, or policies.

4.10. PROPRIETARY MATERIALS. Customer acknowledges that Motorola may use and/or provide Customer with access to Proprietary Materials and Derivative Proprietary Materials. The Proprietary Materials and the Derivative Proprietary Materials are the sole and exclusive property of Motorola and Motorola retains all right, title and interest in and to the Proprietary Materials and Derivative Proprietary Materials.

4.11. ADDITIONAL SERVICES. Any services performed by Motorola outside the scope of this Agreement at the direction of Customer will be considered to be additional Services which are subject to additional charges. Any agreement to perform additional Services will be reflected in a written and executed change order, Addendum or amendment to this Agreement.

5. PERFORMANCE SCHEDULE

The Parties will perform their respective responsibilities in accordance with the Performance Schedule. By executing this Agreement, Customer authorizes Motorola to proceed with contract performance.

6. CONTRACT PRICE, PAYMENT AND INVOICING

6.1. As set forth in the Primary Agreement.

6.2. CONTRACT PRICE. As set forth in the Primary Agreement.

6.3. INVOICING AND PAYMENT. As set forth in the Primary Agreement.

6.4. FREIGHT, TITLE, AND RISK OF LOSS. As set forth in the Primary Agreement

6.5. INVOICING AND SHIPPING ADDRESSES. As set forth in the Primary Agreement.

7. SITES AND SITE CONDITIONS

7.1. ACCESS TO SITES. In addition to its responsibilities described elsewhere in this Agreement, Customer will provide a designated project manager; necessary construction and building permits, zoning variances, licenses, and any other approvals that are necessary to develop or use the sites and mounting locations; and access to the worksites or vehicles identified in *Motorola's Updated Proposal and Technical Documentation* (Exhibit 3) as reasonably requested by Motorola so that it may perform its duties in accordance with the Performance Schedule and Exhibit 3. If Exhibit 3 so indicates, Motorola may assist Customer in the local building permit process. Notwithstanding the forgoing, Motorola is obligated to perform all responsibilities as set forth in Exhibit 3.

7.2. SITE CONDITIONS. Customer will ensure that all existing County-owned work sites it provides will be safe, secure and in compliance with all applicable industry and OSHA standards. To the extent applicable and unless Exhibit 3 states to the contrary, Customer will ensure that all work sites have adequate: physical space; air conditioning and other environmental conditions; adequate and appropriate electrical service, distribution, equipment and connections; and adequate telephone or other communication lines (including modem access and adequate interfacing networking capabilities), all for the installation, use and maintenance of the System. Before installing Equipment or Software at a work site, Motorola may inspect the work site and advise Customer of any apparent deficiencies or non-conformities with the requirements of this Section. This Agreement is predicated upon soil conditions as defined by Exhibit 3.

7.3. **SITE ISSUES.** If a Party determines that the sites identified in *Motorola's Updated Proposal and Technical Documentation* (Exhibit 3) are no longer available or desired, or if subsurface, structural, adverse environmental or latent conditions at any site differ from those indicated in Exhibit 3, the Parties will promptly investigate the conditions and will select replacement sites or adjust the installation plans and specifications as necessary. If change in sites or adjustment to the installation plans and specifications causes a change in the cost or time to perform, the Parties will equitably amend the Contract Price, Performance Schedule or both, by a change order.

8. **TRAINING**

Any training to be provided by Motorola to Customer will be described in the applicable Statement of Work. Customer will notify Motorola immediately if a date change for a scheduled training program is required. If Motorola incurs additional costs because Customer reschedules a training program less than thirty (30) days before its scheduled start date, Motorola may recover these additional costs.

9. **SYSTEM ACCEPTANCE**

9.1. **COMMENCEMENT OF ACCEPTANCE TESTING.** Motorola will provide to Customer at least ten (10) days notice before the Acceptance Tests commence. System testing will occur only in accordance with the Acceptance Test Plan which shall be provided by Motorola to Customer at least 30 days in advance of any testing. Customer will be afforded a minimum of ten (10) business days for review of test plans. All test plans will require Customer review and approval.

9.2. **SYSTEM ACCEPTANCE.** System Acceptance will occur upon successful completion of the Acceptance Tests. Upon System Acceptance, the Parties will memorialize this event by promptly executing a System Acceptance Certificate. If the Acceptance Test Plan includes separate tests for individual Subsystems or phases of the System, acceptance of the individual Subsystem or phase will occur upon the successful completion of the Acceptance Tests for the Subsystem or phase, and the Parties will promptly execute an acceptance certificate for the Subsystem or phase. If Customer believes the System has failed the completed Acceptance Tests, Customer will provide to Motorola a written notice that includes the specific details of the failure. If Customer does not provide to Motorola a failure notice within thirty (30) days after completion of the Acceptance Tests, System Acceptance will be deemed to have occurred as of the completion of the Acceptance Tests. Minor omissions or variances in the System that do not materially impair the operation of the System as a whole will not postpone System Acceptance or Subsystem acceptance, but will be corrected according to a mutually agreed schedule.

9.3. **BENEFICIAL USE.** Customer acknowledges that Motorola's ability to perform its implementation and testing responsibilities may be impeded if Customer begins using the System before System Acceptance. Therefore, Customer will not commence Beneficial Use before System Acceptance without Motorola's prior written authorization, which will not be unreasonably withheld. Motorola is not responsible for System performance deficiencies that occur during unauthorized Beneficial Use. Upon commencement of Beneficial Use, Customer assumes responsibility for the use and operation of the System.

9.4. **FINAL PROJECT ACCEPTANCE.** Final Project Acceptance will occur after System Acceptance, all coverage testing, and successful completion of the 30-day Operational verification period, when all deliverables, punch lists, and other work have been completed. When Final Project Acceptance occurs, the parties will promptly memorialize this final event by so indicating on the System Acceptance Certificate.

10. **REPRESENTATIONS AND WARRANTIES**

10.1. **SYSTEM FUNCTIONALITY.** Motorola represents that the System will perform in accordance with the Specifications in all material respects. Upon Final Project Acceptance or Beneficial Use, whichever

occurs first, this System functionality representation is fulfilled. Motorola is not responsible for System performance deficiencies that are caused by ancillary equipment not furnished by Motorola which is attached to or used in connection with the System or for reasons or parties beyond Motorola's control, such as natural causes; the construction of a building that adversely affects the microwave path reliability or radio frequency (RF) coverage; the addition of frequencies at System sites that cause RF interference or intermodulation; or Customer changes to load usage or configuration outside the Specifications.

10.2.EQUIPMENT WARRANTY. During the Warranty Period, Motorola warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship.

10.3.SOFTWARE WARRANTY. Except as described in the SwSP and unless otherwise stated in the Software License Agreement, during the Warranty Period, Motorola warrants the Software in accordance with the warranty terms set forth in the Software License Agreement and the provisions of this Section that are applicable to the Software. **Nothing in this Warranty provision is intended to conflict or modify the Software Support Policy. In the event of an ambiguity or conflict between the Software Warranty and Software Support Policy, the Software Support Policy governs.**

10.4.EXCLUSIONS TO EQUIPMENT AND SOFTWARE WARRANTIES. These warranties do not apply to: (i) defects or damage resulting from: use of the Equipment or Software in other than its normal, customary, and authorized manner; accident, liquids, neglect, or acts of God; testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Motorola; Customer's failure to comply with all applicable industry and OSHA standards; (ii) breakage of or damage to antennas unless caused directly by defects in material or workmanship; (iii) Equipment that has had the serial number removed or made illegible; (iv) batteries (because they carry their own separate limited warranty) or consumables; (v) freight costs to ship Equipment to the repair depot; (vi) scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment; and (vii) normal or customary wear and tear.

10.5.SERVICE WARRANTY. During the Warranty Period, Motorola warrants that the Services will be provided in a good and workmanlike manner and will conform in all material respects to the applicable Statement of Work. Services will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. Customer acknowledges that the Deliverables may contain recommendations, suggestions or advice from Motorola to Customer (collectively, "recommendations"). Motorola makes no warranties concerning those recommendations, and Customer alone accepts responsibility for choosing whether and how to implement the recommendations and the results to be realized from implementing them.

10.6.WARRANTY CLAIMS. To assert a warranty claim, Customer must notify Motorola in writing of the claim before the expiration of the Warranty Period. Upon receipt of this notice, Motorola will investigate the warranty claim. If this investigation confirms a valid Equipment or Software warranty claim, Motorola will (at its option and at no additional charge to Customer) repair the defective Equipment or Motorola Software, replace it with the same or equivalent product, or refund the price of the defective Equipment or Motorola Software. These actions will be the full extent of Motorola's liability for the warranty claim. In the event of a valid Services warranty claim, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. If this investigation indicates the warranty claim is not valid, then Motorola may invoice Customer for responding to the claim on a time and materials basis using Motorola's then current labor rates. Repaired or replaced product is warranted for the balance of the original applicable warranty period. All replaced products or parts will become the property of Motorola.

10.7.ORIGINAL END USER IS COVERED. These express limited warranties are extended by Motorola to the original user purchasing the System or Services for commercial, industrial, or governmental use

only, and are not assignable or transferable.

10.8.DISCLAIMER OF OTHER WARRANTIES. THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR THE EQUIPMENT AND MOTOROLA SOFTWARE PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.

11. DELAYS

11.1.FORCE MAJEURE. Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure. A Party that becomes aware of a Force Majeure that will significantly delay performance will notify the other Party promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, the Parties will execute a change order to extend the Performance Schedule or applicable Addenda for a time period that is reasonable under the circumstances.

11.2.PERFORMANCE SCHEDULE DELAYS CAUSED BY CUSTOMER. If Customer (including its other contractors) delays the Performance Schedule, it will make the promised payments according to the Payment Schedule as if no delays occurred; and the Parties will execute a change order to extend the Performance Schedule and, if agreed to by both parties, compensate Motorola for all reasonable charges incurred because of the delay. Delay charges may include costs incurred by Motorola or its subcontractors for additional freight, warehousing and handling of Equipment; extension of the warranties; travel; suspending and re-mobilizing the work; additional engineering, project management, and standby time calculated at the current rates; and preparing and implementing an alternative implementation plan.

11.3.PERFORMANCE SCHEDULE DELAYS CAUSED BY CONTRACTOR. If Contractor (including its other contractors) delays the Performance Schedule, Contractor will take actions to mitigate the cause of the delay and make best efforts to recover lost time on the project. After mutual agreement on a schedule recovery plan, both Parties will execute a change order to reflect the newly extended Performance Schedule and, if agreed to by the parties, compensate Customer for all reasonable charges incurred by the delay.

12. DISPUTES

The Parties will use the following procedure to address any dispute arising under this Agreement (a "Dispute").

12.1.GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

12.2.NEGOTIATION. Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute"). The Parties will attempt to resolve the Dispute promptly through good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within ten (10) days from the Notice of Dispute, the Parties will proceed to mediation.

12.3.MEDIATION. The Parties will choose an independent mediator from the McCammon Group in Richmond, Virginia within thirty (30) days of a notice to mediate from either Party ("Notice of Mediation"). Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at

the mediation by a business executive with authority to settle the Dispute.

12.4.LITIGATION, VENUE and JURISDICTION. If a Dispute remains unresolved for one hundred twenty days (120) days after receipt of the Notice of Mediation, either Party may then submit the Dispute litigation pursuant to Section 14 of the Primary Agreement. Each Party irrevocably agrees to submit to the exclusive jurisdiction of such courts for any claim or matter arising under or in connection with this Agreement.

12.5.CONFIDENTIALITY. All communications pursuant to subsections 12.2 and 12.3 will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law. The use of these Dispute resolution procedures will not be construed under the doctrines of laches, waiver or estoppel to affect adversely the rights of either Party.

13. DEFAULT AND TERMINATION

13.1.DEFAULT BY A PARTY. If either Party fails to perform a material obligation under this Agreement, the other Party may consider the non-performing Party to be in default (unless a Force Majeure causes the failure) and may assert a default claim by giving the non-performing Party a written and detailed notice of default. The defaulting Party will have thirty (30) days after receipt of the notice of default to either cure the default or, if the default is not curable within thirty (30) days, provide a written cure plan. The defaulting Party will begin implementing the cure plan immediately after receipt of notice by the other Party that it approves the plan.

13.2.FAILURE TO CURE. If a defaulting Party fails to cure the default as provided above in Section 13.1, unless otherwise agreed in writing, the non-defaulting Party may terminate any unfulfilled portion of this Agreement. In the event of termination for default, the defaulting Party will promptly return to the non-defaulting Party any of its Confidential Information. If Customer is the non-defaulting Party, terminates this Agreement as permitted by this Section, and completes the System through a third Party, Customer may as its exclusive remedy recover from Motorola reasonable costs incurred to complete the System to a capability not exceeding that specified in this Agreement less the unpaid portion of the Contract Price. Customer will mitigate damages and provide Motorola with detailed invoices substantiating the charges. In the event Customer elects to terminate this Agreement for any reason other than default, Customer shall pay Motorola for the conforming Equipment and/or Software delivered and all services performed.

14. INDEMNIFICATION

14.1.GENERAL INDEMNITY BY Motorola. Motorola will indemnify and hold the County of Dinwiddie, Virginia and their officers, agents and employees harmless from any and all liability, claims, expense, judgment, suit, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue against Customer to the extent it is caused by the negligence or intentional conduct of Motorola, its subcontractors, or their employees or agents, while performing their duties under this Agreement, if Customer shall give Motorola prompt, written notice of any claim or suit. Customer will cooperate with Motorola in its defense or settlement of the claim or suit. This Section sets forth the full extent of Motorola's general indemnification of Customer from liabilities that are in any way related to Motorola's performance under this Agreement.

14.2.GENERAL INDEMNITY BY CUSTOMER. Reserved.

14.3.PATENT AND COPYRIGHT INFRINGEMENT.

14.3.1. Motorola will defend at its expense any suit brought against Customer to the extent it is based on a third-party claim alleging that the Equipment manufactured by Motorola or the Motorola Software

("Motorola Product") directly infringes a United States patent or copyright ("Infringement Claim"). Motorola's duties to defend and indemnify are conditioned upon: Customer promptly notifying Motorola in writing of the Infringement Claim; Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Customer providing to Motorola cooperation and, if requested by Motorola, reasonable assistance in the defense of the Infringement Claim. In addition to Motorola's obligation to defend, and subject to the same conditions, Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Motorola in settlement of an Infringement Claim.

14.3.2. If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Motorola Product; (b) replace or modify the Motorola Product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Motorola Product and grant Customer a credit for the Motorola Product, less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards.

14.3.3. Motorola will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Motorola Product with any software, apparatus or device not furnished by Motorola; (b) the use of ancillary equipment or software not furnished by Motorola and that is attached to or used in connection with the Motorola Product; (c) Motorola Product designed or manufactured in accordance with Customer's designs, specifications, guidelines or instructions, if the alleged infringement would not have occurred without such designs, specifications, guidelines or instructions; (d) a modification of the Motorola Product by a party other than Motorola; (e) use of the Motorola Product in a manner for which the Motorola Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from its indemnity obligation to Customer extend in any way to royalties payable on a per use basis or the Customer's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the infringing Motorola Product.

14.3.4. This Section 14 provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim. Customer has no right to recover and Motorola has no obligation to provide any other or further remedies, whether under another provision of this Agreement or any other legal theory or principle, in connection with an Infringement Claim. In addition, the rights and remedies provided in this Section 14 are subject to and limited by the restrictions set forth in Section 15.

15. LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the total Contract Price.. With respect to all subscription or other ongoing Services and unless as otherwise provided under the applicable Addenda, Motorola's total liability will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Services preceding the incident giving rise to the claim. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS, INCONVENIENCE, LOSS OF USE, LOSS TIME, DATA, GOODWILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT.** This limitation of liability provision survives the expiration or termination of the Agreement and applies notwithstanding any contrary provision. No action for contract breach or otherwise relating to the transactions contemplated by this

Agreement may be brought more than two (2) year after the accrual of the cause of action, except for money due upon an open account. Section 15 shall not apply to Indemnification.

16. CONFIDENTIALITY AND PROPRIETARY RIGHTS

16.1.CONFIDENTIAL INFORMATION

16.1.1. Each party is a disclosing party (“Discloser”) and a receiving party (“Recipient”) under this Agreement. All Deliverables will be deemed to be Motorola’s Confidential Information as long as the other party indicates specifically in writing at the time of delivery what they consider them to be confidential. During the term of this Agreement and for a period of three (3) years from the expiration or termination of this Agreement, Recipient will (i) not disclose Confidential Information to any third party; (ii) restrict disclosure of Confidential Information to only those employees (including, but not limited to, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must be directly involved with the Confidential Information for the purpose and who are bound by confidentiality terms substantially similar to those in this Agreement; (iii) not copy, reproduce, reverse engineer, decompile, or disassemble any Confidential Information; (iv) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (v) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Agreement; and (vi) only use the Confidential Information as needed to fulfill this Agreement.

16.1.2. Recipient is not obligated to maintain as confidential, Confidential Information that Recipient can demonstrate by documentation (i) is now available or becomes available to the public without breach of this agreement; (ii) is explicitly approved for release by written authorization of Discloser; (iii) is lawfully obtained from a third party or parties without a duty of confidentiality; (iv) is known to the Recipient prior to such disclosure; or (v) is independently developed by Recipient without the use of any of Discloser’s Confidential Information or any breach of this Agreement.

16.1.3. All Confidential Information remains the property of the Discloser and will not be copied or reproduced without the express written permission of the Discloser, except for copies that are absolutely necessary in order to fulfill this Agreement. Within ten (10) days of receipt of Discloser’s written request, Recipient will return all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain one (1) archival copy of the Confidential Information that it may use only in case of a dispute concerning this Agreement. No license, express or implied, in the Confidential Information is granted other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. The Discloser warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

16.2. **PRESERVATION OF MOTOROLA’S PROPRIETARY RIGHTS.** Motorola, the third party manufacturer of any Equipment, and the copyright owner of any Non-Motorola Software own and retain all of their respective Proprietary Rights in the Equipment and Software, and nothing in this Agreement is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by Motorola in connection with providing to Customer the Equipment, Software, or related services remain vested exclusively in Motorola, and this Agreement does not grant to Customer any shared development rights of intellectual property. Except as explicitly provided in the Software License Agreement, Motorola does not grant to Customer, either directly or by implication, estoppel, or otherwise, any right, title or interest in Motorola’s Proprietary Rights. Customer will not modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software,

reproduce, distribute, sublicense, sell or export the Software, or permit or encourage any third party to do so. The preceding sentence does not apply to Open Source Software which is governed by the standard license of the copyright owner.

16.3. **VOLUNTARY DISCLOSURE.** Except as required to fulfill its obligations under this Agreement, Motorola will have no obligation to provide Customer with access to its Confidential Information and/or proprietary information. Under no circumstances will Motorola be required to provide any data related to cost and pricing to the County. This does not include all provided pricing. The contract itself, is not considered Confidential, as the Customer is a public body in Virginia subject to the Freedom of Information Act. Motorola acknowledges and complies with the Virginia Freedom of Information Act. Motorola reserves all rights under the Act for exclusions that provide for preventing the disclosure of Trade Secrets and Proprietary Information.

16.4. DATA AND FEEDBACK.

16.4.1. To the extent permitted by law, Customer owns all right, title and interest in System Data created solely by it or its agents (hereafter, "Customer Data"), and grants to Motorola the right to use, host, cache, store, reproduce, copy, modify, combine, analyze, create derivatives from, communicate, transmit, publish, display, and distribute such Customer Data. Any Customer data or information that is sensitive or confidential shall be so marked by the Customer, and any use of or derivatives developed by Motorola of said data or information shall be considered Confidential and shall not be disseminated without Customer approval. Ownership and title of all Customer sensitive and confidential data and information shall remain with Customer.

16.4.2. Motorola owns all right, title and interest in data resulting from System Data that is or has been transformed, altered, processed, aggregated, correlated or operated on (hereafter, "Derivative Data").

16.4.3. Any Feedback given by Customer is and will be entirely voluntary and, even if designated as confidential, will not create any confidentiality obligation for Motorola. Motorola will be free to use, reproduce, license or otherwise distribute and exploit the Feedback without any obligation to Customer. Customer acknowledges that Motorola's receipt of the Feedback does not imply or create recognition by Motorola of either the novelty or originality of any idea. The parties further agree that all fixes, modifications and improvements made to Motorola products or services conceived of or made by Motorola that are based, either in whole or in part, on the Feedback are the exclusive property of Motorola and all right, title and interest in and to such fixes, modifications or improvements to the Motorola product or service will vest solely in Motorola.

17. GENERAL

17.1. **TAXES.** The Contract Price does not include any excise, sales, lease, use, property, or other taxes, assessments or duties, all of which will be paid by Customer except as exempt by law. If Motorola is required to pay any of these taxes, Motorola will send an invoice to Customer and Customer will pay to Motorola the amount of the taxes (including any interest and penalties) within thirty (30) days after the date of the invoice. Customer will be solely responsible for reporting the Equipment for personal property tax purposes, and Motorola will be solely responsible for reporting taxes on its income or net worth.

17.2. **ASSIGNABILITY AND SUBCONTRACTING.** Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a

“Separation Event”), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

- 17.3. **WAIVER.** Failure or delay by either Party to exercise a right or power under this Agreement will not be a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the waiving Party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.
- 17.4. **SEVERABILITY.** As set forth in the Primary Agreement.
- 17.5. **INDEPENDENT CONTRACTORS.** Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership or formal business organization of any kind.
- 17.6. **HEADINGS AND SECTION REFERENCES.** The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.
- 17.7. **NOTICES.** As set forth in the Primary Agreement.
- 17.8. **COMPLIANCE WITH APPLICABLE LAWS.** Each Party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement or use of the System. Customer will obtain and comply with all Federal Communications Commission (“FCC”) licenses and authorizations required for the installation, operation and use of the System before the scheduled installation of the Equipment. Although Motorola might assist Customer in the preparation of its FCC license applications, neither Motorola nor any of its employees is an agent or representative of Customer in FCC or other matters.
- 17.9. **FUTURE REGULATORY REQUIREMENTS.** The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or the Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Services.
- 17.10. **AUTHORITY TO EXECUTE AGREEMENT.** Each Party represents that it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; the person executing this Agreement on its behalf has the authority to do so; upon execution and delivery of this Agreement by the Parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.
- 17.11. **ADMINISTRATOR LEVEL ACCOUNT ACCESS.** If applicable to the type of System purchased by Customer, Motorola will provide Customer with Administrative User Credentials. Customer agrees to only grant access to the Administrative User Credentials to those personnel with the training and experience to correctly use them. Customer is responsible for protecting Administrative User Credentials from disclosure and maintaining Credential validity by, among other things, updating passwords when required. Customer may be asked to provide valid Administrative User Credentials when in contact with Motorola System support personnel. Customer understands that changes made as the Administrative User

can significantly impact the performance of the System. Customer agrees that it will be solely responsible for any negative impact on the System or its users by any such changes. System issues occurring as a result of changes made using the Administrative User Credentials may impact Motorola's ability to perform Services or other obligations under the Agreement. In such cases, a revision to the appropriate provisions of the Agreement, including the *Motorola's Updated Proposal and Technical Documentation* (Exhibit 3), may be necessary. To the extent Motorola provides assistance to correct any issues caused by or arising out of the use of or failure to maintain Administrative User Credentials, Motorola will be entitled to bill Customer and Customer will pay Motorola on a time and materials basis for resolving the issue.

17.12. SURVIVAL OF TERMS. The following provisions will survive the expiration or termination of this Agreement for any reason: Section 3.5 (Motorola Software); Section 3.6 (Non-Motorola Software); if any payment obligations exist, Sections 6.2 and 6.3 (Contract Price and Invoicing and Payment); Subsection 10.8 (Disclaimer of Implied Warranties); Section 12 (Disputes); Section 15 (Limitation of Liability); and Section 16 (Confidentiality and Proprietary Rights); and all of the General provisions in Section 17.

17.13. ENTIRE AGREEMENT. As set forth in the Primary Agreement.

EXHIBIT 1

MOTOROLA'S SOFTWARE LICENSE AGREEMENT

This Exhibit 1 Motorola Software License Agreement ("Agreement") is between Motorola Solutions, Inc., ("Motorola"), and the County of Dinwiddie ("Licensee").

For good and valuable consideration, the parties agree as follows:

1. DEFINITIONS

- 1.1. **"Designated Products"** means products provided by Motorola to Licensee with which or for which the Software and Documentation is licensed for use.
- 1.2. **"Documentation"** means product and software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).
- 1.3. **"Open Source Software"** means software with either freely obtainable source code, license for modification, or permission for free distribution.
- 1.4. **"Open Source Software License"** means the terms or conditions under which the Open Source Software is licensed.
- 1.5. **"Security Vulnerability"** means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.
- 1.6. **"Software"** (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

2. SCOPE

Motorola and Licensee enter into this Agreement in connection with Motorola's delivery of certain proprietary software or products containing embedded or pre-loaded proprietary software, or both. This Agreement contains the terms and conditions of the license Motorola is providing to Licensee, and Licensee's use of the proprietary software and affiliated documentation.

3. GRANT OF LICENSE

- 3.1. Subject to the provisions of this Agreement and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under Motorola's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.
- 3.2. If the Software licensed under this Agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and conditions of this Agreement and the terms and conditions of the Open Source Software Licenses governing Licensee's

use of the Open Source Software, the terms and conditions of the license grant of the applicable Open Source Software Licenses will take precedence over the license grants in this Agreement. If requested by Licensee, Motorola will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this Agreement; and (ii) identify the Open Source Software (or specify where that license may be found).

- 3.3. TO THE EXTENT, IF ANY, THAT THERE IS A SEPARATE LICENSE AGREEMENT PACKAGED WITH, OR PROVIDED ELECTRONICALLY WITH, A PARTICULAR PRODUCT THAT BECOMES EFFECTIVE ON AN ACT OF ACCEPTANCE BY THE END USER, THEN THAT AGREEMENT SUPERSEDES THE SOFTWARE LICENSE AGREEMENT AS TO THE END USER OF EACH SUCH PRODUCT.

4. LIMITATIONS ON USE

- 4.1. Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.
- 4.2. Licensee will not, and will not allow or enable any third party to: (i) reverse engineer, disassemble, peel components, decompile, reprogram or otherwise reduce the Software or any portion to a human perceptible form or otherwise attempt to recreate the source code; (ii) modify, adapt, create derivative works of, or merge the Software; (iii) copy, reproduce, distribute, lend, or lease the Software or Documentation to any third party, grant any sublicense or other rights in the Software or Documentation to any third party, or take any action that would cause the Software or Documentation to be placed in the public domain; (iv) remove, or in any way alter or obscure, any copyright notice or other notice of Motorola's proprietary rights; (v) provide, copy, transmit, disclose, divulge or make the Software or Documentation available to, or permit the use of the Software by any third party or on any machine except as expressly authorized by this Agreement; or (vi) use, or permit the use of, the Software in a manner that would result in the production of a copy of the Software solely by activating a machine containing the Software. Licensee may make one copy of Software to be used solely for archival, back-up, or disaster recovery purposes; provided that Licensee may not operate that copy of the Software at the same time as the original Software is being operated. Licensee may make as many copies of the Documentation as it may reasonably require for the internal use of the Software.
- 4.3. Unless otherwise authorized by Motorola in writing, Licensee will not, and will not enable or allow any third party to: (i) install a licensed copy of the Software on more than one unit of a Designated Product; or (ii) copy onto or transfer Software installed in one unit of a Designated Product onto one other device. Licensee may temporarily transfer Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Licensee provides written notice to Motorola of the temporary transfer and identifies the device on which the Software is transferred. Temporary transfer of the Software to another device must be discontinued when the original Designated Product is returned to operation and the Software must be removed from the other device. Licensee must provide prompt written notice to Motorola at the time temporary transfer is discontinued.
- 4.4. Licensee will maintain, during the term of this Agreement and for a period of two years thereafter, accurate records relating to this license grant to verify compliance with this Agreement. Motorola or an independent third party ("Auditor") may inspect Licensee's premises, books and records, upon reasonable prior notice to Licensee, during Licensee's normal business hours and subject to Licensee's facility and security regulations. Motorola is responsible for the payment of all expenses and costs of the Auditor. Any information obtained by Motorola and the Auditor will be kept in strict confidence by Motorola and the Auditor and used solely for the purpose of verifying Licensee's compliance with the terms of this Agreement.

5. OWNERSHIP AND TITLE

Motorola, its licensors, and its suppliers retain all of their proprietary rights in any form in and to the Software and Documentation, including, but not limited to, all rights in patents, patent applications, inventions, copyrights, trademarks, trade secrets, trade names, and other proprietary rights in or relating to the Software and Documentation (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, emulations to or derivative works from the Software or Documentation, whether made by Motorola or another party, or any improvements that result from Motorola's processes or, provision of information services). No rights are granted to Licensee under this Agreement by implication, estoppel or otherwise, except for those rights which are expressly granted to Licensee in this Agreement. All intellectual property developed, originated, or prepared by Motorola in connection with providing the Software, Designated Products, Documentation or related services, remains vested exclusively in Motorola, and Licensee will not have any shared development or other intellectual property rights.

6. LIMITED WARRANTY; DISCLAIMER OF WARRANTY

- 6.1. Unless otherwise stated in the Primary Agreement, the commencement date and the term of the Software warranty will be for a period of three (3) years from Motorola's delivery of the Software. If Licensee is not in breach of any of its obligations under this Agreement, Motorola warrants that the unmodified Software, when used properly and in accordance with the Documentation and this Agreement, will be free from a reproducible defect that eliminates the functionality or successful operation of a feature critical to the primary functionality or successful operation of the Software. Whether a defect occurs will be determined by Motorola solely with reference to the Documentation. Motorola does not warrant that Licensee's use of the Software or the Designated Products will be uninterrupted, error-free, completely free of Security Vulnerabilities, or that the Software or the Designated Products will meet Licensee's particular requirements. Motorola makes no representations or warranties with respect to any third party software included in the Software. Notwithstanding, any warranty provided by a copyright owner in its standard license terms will flow through to Licensee for third party software provided by Motorola.
- 6.2. Motorola's sole obligation to Licensee and Licensee's exclusive remedy under this warranty is to use reasonable efforts to remedy any material Software defect covered by this warranty. These efforts will involve either replacing the media or attempting to correct significant, demonstrable program or documentation errors or Security Vulnerabilities. If Motorola cannot correct the defect within a reasonable time, then at Motorola's option, Motorola will replace the defective Software with functionally-equivalent Software, license to Licensee substitute Software which will accomplish the same objective, or terminate the license and refund the Licensee's paid license fee.
- 6.3. Warranty claims are described in Agreement.
- 6.4. The express warranties set forth in this Section 6 are in lieu of, and Motorola disclaims, any and all other warranties (express or implied, oral or written) with respect to the Software or Documentation, including, without limitation, any and all implied warranties of condition, title, non-infringement, merchantability, or fitness for a particular purpose or use by Licensee (whether or not Motorola knows, has reason to know, has been advised, or is otherwise aware of any such purpose or use), whether arising by law, by reason of custom or usage of trade, or by course of dealing. In addition, Motorola disclaims any warranty to any person other than Licensee with respect to the Software or Documentation.

7. TRANSFERS

Licensee will not transfer the Software or Documentation to any third party without Motorola's prior written consent. Motorola's consent may be withheld at its discretion and may be conditioned upon transferee paying all applicable license fees and agreeing to be bound by this Agreement. If the Designated Products are Motorola's radio products and Licensee transfers ownership of the Motorola radio products to a third party,

Licensee may assign its right to use the Software (other than CPS and Motorola's FLASHport® software) which is embedded in or furnished for use with the radio products and the related Documentation; provided that Licensee transfers all copies of the Software and Documentation to the transferee, and Licensee and the transferee sign a transfer form to be provided by Motorola upon request, obligating the transferee to be bound by this Agreement.

8. TERM AND TERMINATION

- 8.1. Licensee's right to use the Software and Documentation will begin when the Primary Agreement is signed by both parties and will continue for the life of the Designated Products with which or for which the Software and Documentation have been provided by Motorola, unless Licensee breaches this Agreement, in which case this Agreement and Licensee's right to use the Software and Documentation may be terminated immediately upon notice by Motorola.
- 8.2. Within thirty (30) days after termination of this Agreement, Licensee must certify in writing to Motorola that all copies of the Software have been removed or deleted from the Designated Products and that all copies of the Software and Documentation have been returned to Motorola or destroyed by Licensee and are no longer in use by Licensee.
- 8.3. Licensee acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Software and Documentation and that Licensee's breach of this Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Licensee breaches this Agreement, Motorola may terminate this Agreement and be entitled to all available remedies at law or in equity (including immediate injunctive relief and repossession of all non-embedded Software and associated Documentation unless Licensee is a Federal agency of the United States Government).

9. COMMERCIAL COMPUTER SOFTWARE

- 9.1. *This Section 9 only applies to U.S. Government end users.* The Software, Documentation and updates are commercial items as that term is defined at 48 C.F.R. Part 2.101, consisting of "commercial computer software" and "computer software documentation" as such terms are defined in 48 C.F.R. Part 252.227-7014(a)(1) and 48 C.F.R. Part 252.227-7014(a)(5), and used in 48 C.F.R. Part 12.212 and 48 C.F.R. Part 227.7202, as applicable. Consistent with 48 C.F.R. Part 12.212, 48 C.F.R. Part 252.227-7015, 48 C.F.R. Part 227.7202-1 through 227.7202-4, 48 C.F.R. Part 52.227-19, and other relevant sections of the Code of Federal Regulations, as applicable, the Software, Documentation and Updates are distributed and licensed to U.S. Government end users: (i) only as commercial items, and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions contained herein.
- 9.2. If Licensee is licensing Software for end use by the United States Government or a United States Government agency, Licensee may transfer such Software license, but only if: (i) Licensee transfers all copies of such Software and Documentation to such United States Government entity or interim transferee, and (ii) Licensee has first obtained from the transferee (if applicable) and ultimate end user an enforceable end user license agreement containing restrictions substantially identical to the ones contained in this Agreement. Except as stated in the foregoing, Licensee and any transferee(s) authorized by this subsection 9.2 may not otherwise use or transfer or make available any Motorola software to any third party nor permit any party to do so.

10. CONFIDENTIALITY

Licensee acknowledges that the Software and Documentation contain Motorola's valuable proprietary and Confidential Information and are Motorola's trade secrets, and that the provisions in Addendum A concerning Confidential Information apply.

11. LIMITATION OF LIABILITY

The Limitation of Liability, Indemnification and Dispute Resolution provisions are described in the Addendum A.

12. NOTICES

Notices are described in the Primary Agreement.

13. GENERAL

13.1. **COPYRIGHT NOTICES.** The existence of a copyright notice on the Software will not be construed as an admission or presumption of publication of the Software or public disclosure of any trade secrets associated with the Software.

13.2. **COMPLIANCE WITH LAWS.** Licensee acknowledges that the Software is subject to the laws and regulations of the United States and Licensee will comply with all applicable laws and regulations, including export laws and regulations of the United States. Licensee will not, without the prior authorization of Motorola and the appropriate governmental authority of the United States, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any item or technical data or direct or indirect products sold or otherwise furnished to any person within any territory for which the United States Government or any of its agencies at the time of the action, requires an export license or other governmental approval. Violation of this provision is a material breach of this Agreement.

13.3. **FUTURE REGULATORY REQUIREMENTS.** The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or the Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Services.

13.4. **ASSIGNMENTS AND SUBCONTRACTING.** Motorola may assign its rights or subcontract its obligations under this Agreement, or encumber or sell its rights in any Software, without prior notice to or consent of Licensee.

13.5. **GOVERNING LAW.** This Agreement is governed by the laws of the United States to the extent that they apply and otherwise by the internal substantive laws of the Commonwealth of Virginia. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. In the event that the Uniform Computer Information Transaction Act, any version of this Act, or a substantially similar law (collectively "UCITA") becomes applicable to a party's performance under this Agreement, UCITA does not govern any aspect of this Agreement or any license granted under this Agreement, or any of the parties' rights or obligations under this Agreement. The governing law will be that in effect prior to the applicability of UCITA.

13.6. **THIRD PARTY BENEFICIARIES.** This Agreement is entered into solely for the benefit of Motorola and Licensee. No third party has the right to make any claim or assert any right under this Agreement, and no third party is deemed a beneficiary of this Agreement. Notwithstanding the foregoing, any licensor or supplier of third party software included in the Software will be a direct and intended third party beneficiary of this Agreement.

13.7. **SURVIVAL.** Sections 4, 5, 6.4, 7, 8, 9, 10, 11 and 13 survive the termination of this Agreement.

13.8. **ORDER OF PRECEDENCE.** In the event of inconsistencies between this Exhibit and the Primary Agreement, the parties agree that this Exhibit prevails, only with respect to the specific subject matter of this Exhibit, and not the Primary Agreement or any other Exhibit as it applies to any other subject matter.

13.9. SECURITY. Motorola uses reasonable means in the design and writing of its own Software and the acquisition of third party Software to limit Security Vulnerabilities. While no software can be guaranteed to be free from Security Vulnerabilities, if a Security Vulnerability is discovered, Motorola will take the steps set forth in Section 6 of this Agreement.

ADDENDUM B

MOTOROLA'S MAINTENANCE, SUPPORT AND UPGRADE AGREEMENT

This Addendum B provides additional or different terms and conditions to govern the sale of Maintenance, Support and SUA Services. The terms in this Addendum are integral to and incorporated into the Primary Agreement signed by the Parties.

The terms of Addendum B will govern the products and services offered pursuant to this Addendum B. To the extent there is a conflict between the terms and conditions of Addendum B and the Primary Agreement, Addendum B will govern the subject matter and services set forth in Addendum B.

1. DEFINITIONS

All capitalized terms not otherwise defined herein shall have the same meaning as defined in *Motorola's Communications Systems and Services Agreement* (Addendum A).

“**SUA**” means Motorola Software Upgrade Agreement program.

“**Equipment**”. For this Addendum, Equipment will be defined to mean the hardware specified in *Motorola's Updated Proposal and Technical Documentation* (Exhibit 3).

2. SCOPE

Motorola will provide Maintenance and Support Services and/or SUA Services as further described *Motorola's Upgraded Proposal and Technical Documentation* (Exhibit 3).

3. TERMS AND CONDITIONS

The terms of the Primary Agreement combined with the terms of this Addendum will govern the products and services offered pursuant to this Addendum. To the extent there is a conflict between the terms and conditions of the Primary Agreement and the terms and conditions of this Addendum, this Addendum takes precedence.

3.1. MAINTENANCE AND SUPPORT SERVICES

3.1.1.**PURCHASE ORDER ACCEPTANCE.** Purchase orders for additional, continued, or expanded maintenance and software support, during the Warranty Period or after the Warranty Period, become binding only when accepted in writing by Motorola.

3.1.2.**START DATE.** As set forth in the Primary Agreement.

3.1.3.**AUTO RENEWAL.** As set forth in the Primary Agreement.

3.1.4.**TERMINATION.** As set forth in the Primary Agreement.

3.1.5.**ADDITIONAL HARDWARE.** If Customer purchases additional hardware from Motorola that becomes part of the System, the additional hardware may be added to this Contract and will be billed at the applicable rates after the warranty period for that additional equipment expires. Such hardware will be included in the definition of Equipment.

3.1.6.**MAINTENANCE.** Equipment will be maintained at levels set forth in the manufacturer's product manuals and routine procedures that are prescribed by Motorola will be followed. Motorola parts and parts of equal quality will be used for Equipment maintenance.

3.1.7.**EQUIPMENT CONDITION.** All Equipment must be in good working order on the Start Date or

when additional equipment is added to the Agreement. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment. Customer must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. Customer's obligation to pay maintenance and support fees for this Equipment will terminate at the end of the month in which Motorola receives the written notice. If Equipment cannot, in Motorola's reasonable opinion, be properly or economically maintained for any reason, Motorola may modify the scope of Services related to that Equipment; remove that Equipment from the Agreement; or increase the price to maintain that Equipment.

3.1.8. **EQUIPMENT FAILURE.** Customer must promptly notify Motorola of any Equipment failure. Motorola will respond to Customer's notification in a manner consistent with the level of Service purchased as indicated in the Agreement.

3.1.9. **INTRINSICALLY SAFE.** Customer must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.

3.1.10. **EXCLUDED SERVICES.**

- a. Service excludes the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.
- b. Unless specifically included in this Addendum, Service excludes items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes.; upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.

3.1.11. **TIME AND PLACE.** Service will be provided at the location specified in *Motorola's Updated Proposal and Technical Documentation* (Exhibit 3). Customer will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated, the hours of Service for routine maintenance will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. As-needed support shall be provided twenty-four (24) hours per day, seven (7) days per week.

3.1.12. **CUSTOMER CONTACT.** Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable Customer's personnel to maintain contact, as needed, with Motorola.

3.2. SUA (SOFTWARE UPGRADE AGREEMENT) SERVICES

3.2.1. The Software License Agreement, included as Exhibit 1 to the Primary Agreement, applies to any Motorola Software provided as part of the SUA transactions. Software Upgrade Services will be provided based on *Motorola's Updated Proposal and Technical Documentation*. (Exhibit 3).

3.2.2. Term of this Addendum. As set forth in the Primary Agreement.

3.2.3. The System upgrade will be scheduled during the subscription period and will be performed when Motorola's system upgrade operation resources are available. Because there might be a significant time frame between when this Agreement is executed and when a System upgrade transaction is

performed, Motorola may substitute any of the promised Equipment or Software so long as the substitute is equivalent or superior to the initially promised Equipment or Software.

3.2.4. Acceptance of a SUA transaction occurs when the Equipment (if any) and Software are delivered and the SUA services are fully performed; there is no Acceptance Testing with a SUA transaction.

3.2.5. The Warranty Period for any Equipment or Motorola Software provided under a SUA transaction will commence upon shipment and is for a period of ninety (90) days.

3.2.6. In addition to the description of the SUA services and exclusions provided, the following apply:

- a. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment.
- b. SUA services exclude the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.
- c. Unless specifically included in this Agreement, SUA services exclude items that are consumed in the normal operation of the Equipment; accessories; and repair or maintenance of any transmission line. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.
- d. Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available during the performance of the SUA services.

4. PAYMENT. As set forth in the Primary Agreement.

5. ENTIRE AGREEMENT. As set forth in the Primary Agreement.

EXHIBIT 2 ASTRO SOFTWARE SUPPORT POLICY

Changes in software support policy during the project, including contracted warranty and maintenance periods, that reduce services or contracted features and/or functions to the County purchased system shall require a change order and a negotiated monetary credit to the project.

This document defines specific support availability and timelines for Motorola Solutions ASTRO® 25 and Dimetra systems. **Support Periods:** The standard support period begins when a system software release is first made available to the market. From that date, the standard support period for the software release is four years, referred to as Year 1 to Year 4 or Y1 to Y4. The extended support period is from year 5 to year 7 or Y5 to Y7. Depending on the support option, the End of Support (EoS) period is from either year 5 or year 8 and into the future. These support periods are not affected by the purchase date, shipment date or acceptance date of a system for a given software release.

1) Standard support period: Motorola Solutions will support the given software release in the following manner:

- **Support Service Availability**
 - Period: Y1 through Y4 from initial market availability of the software release
 - All Support Services available
- **Software Defect Repair / Patching**
 - Period: Y1 through Y2
 - Qualified Severity 1 and Severity 2 incidents that result in product defect fixes will be made available to the customer. Some defects may require an upgrade to a more current release to resolve.
 - Period: Y3 through Y4
 - Qualified Severity 1 incidents that result in product defect fixes will be made available to the customer. Some defects may require an upgrade to a more current release to resolve.
- **Security Services**
 - Period: Y1 through Y4
 - All Security Services available (Security Monitoring and Security Update Service)
- **System Expansion**
 - Period: Y1 through Y4
 - Full system expansion available including subscribers, sites, consoles, base stations and radio system Customer Enterprise Network (CEN) additions.

2) Extended Support Period: Applies to software releases that have reached the end of Standard Support. Motorola Solutions continues to provide support on such products as specified below. Extended Support includes:

- **Support Service Availability**
 - Period: Y5 through Y7
 - All Support Services available through pricing of these services will be escalated.
- **Software Defect Repair / Patching**
 - Period: Y5 through Y7
 - Defect Repair: Not available
- **Security Services**
 - Period: Y5 through Y7
 - Security Services - Not available
- **System Expansion**
 - Period: Y5 through Y7
 - Infrastructure expansions are not available. System Expansion is limited to subscribers only. Some features on the subscribers may not function due to Infrastructure expansions no longer being available.

3) End of Support Period: Applies to software releases that have reached the end of Extended Support.

Support for older software versions will no longer be available. End of Support includes:

- **Support Service Availability and Pricing**
 - Period: Y8 and later
 - Support Services - Not Available
- **Software Patching**
 - Period: Y5 and later
 - Defect Repair - Not Available
 - Security Services - Not Available
- **System Expansion**
 - Period: Y5 and later
 - Infrastructure expansions are not available. System Expansion is limited to subscribers only. Some features on the subscribers may not function due to Infrastructure expansions no longer being available.

Motorola Solutions, Inc.
Effective 11-21-2016

ADDENDUM C
MOTOROLA'S SUBSCRIPTION SERVICES AGREEMENT

This Addendum to the *Primary Agreement* provides additional or different terms and conditions to govern the sale of Subscription Services ("Addendum C"). The terms in this Addendum are integral to and incorporated into the Primary Agreement signed by the Parties.

The terms of Addendum C, will govern the products and services offered pursuant to this Addendum C. To the extent there is a conflict between the terms and conditions of Addendum C and the Primary Agreement, Addendum C will govern the subject matter and services set forth in Addendum C.

1. DEFINITIONS

All capitalized terms not otherwise defined in this Addendum shall have the same meaning as defined in Addendum A. Any reference to the purchase or sale of software or other Intellectual Property shall mean the sale or purchase of a license or sublicense to use such software or Intellectual Property in accordance with this Addendum.

"Administrator" means Customer's designated system administrator who received administrative logins for the Subscription Services and issues access rights to Customer's Users.

"Anonymized" means having been stripped of any personal or correlating information revealing original source or uniquely identifying a person or entity.

"Customer Data" means Native Data provided by Customer to Motorola hereunder to be processed and used in connection with the Subscription Services. Customer Data does not include data provided by third parties and passed on to Motorola.

"Documentation" means the technical materials provided by Motorola to Customer in hard copy or electronic form describing the use and operation of the Solution and Software, including any technical manuals, but excluding any sales, advertising or marketing materials or proposals.

"Licensed Product" means 1) Software, whether hosted or installed at Customer's site, 2) Documentation; 3) associated user interfaces; 4) help resources; and 5) any related technology or other services made available by the Solution.

"Native Data" means data that is created solely by Customer or its agents.

"Subscription Services" means those subscription services to be provided by Motorola to Customer under this Addendum, the nature and scope of which are more fully described in the Motorola's Updated Proposal and Technical Documentation (Exhibit 3), or other Solution materials provided by Motorola, as applicable. Subscription Services for this Agreement include Radio Management, WAVE, and SmartConnect and are included in both the 3 year warranty and the 7 year maintenance.

"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 security mechanism implemented by Customer.

2. SCOPE

2.1. SUBSCRIPTION SERVICES. Motorola will provide to Customer the Subscription Services and Deliverables (if any). As part of the Subscription Services, Motorola will allow Customer to use the Solution described in the *Motorola's Updated Proposal and Technical Documentation* (Exhibit 3) or other "Incorporated Documents applicable. In the event of a conflict between an Addendum and *Motorola's*

Updated Proposal and Technical Documentation (Exhibit 3), the Addendum will govern resolution of the conflict. Motorola and Customer will perform their respective responsibilities as described in this Addendum and *Motorola's Updated Proposal and Technical Documentation* (Exhibit 3) and any applicable Incorporated Documents.

2.2. **CHANGES.** As set forth in the Primary Agreement.

2.3. **NON-SOLICITATION.** Reserved.

3. **TERM.** As set forth in the Primary Agreement.

4. **CUSTOMER OBLIGATIONS**

Customer will fulfill all of its obligations in this Addendum, and the *Motorola's Updated Proposal and Technical Documentation* (Exhibit 3) in a timely and accurate manner. Failure to do so may prevent Motorola from performing its responsibilities.

4.1. **ACCESS.** To enable Motorola to perform the Subscription Services, Customer will provide to Motorola reasonable access to relevant Customer information, personnel, systems, and office space when Motorola's employees are working on Customer's premises, and other general assistance. Further, if any equipment is installed or stored at Customer's location in order to provide the Subscription Services, Customer will provide, at no charge, a non-hazardous environment with adequate shelter, heat, light, power, security, and full and free access to the equipment.

4.2. **RISK OF LOSS.** If any portion of the Solution resides on Customer premises or is under Customer's control in any way, Customer shall at all times exercise reasonable care in using and maintaining the Solution in accordance with Motorola's instructions for proper use and care. Risk of loss to any equipment in Customer's possession will reside with Motorola until removed by Motorola or its agent or returned by Customer. Motorola will be responsible for replacement costs of lost or damaged equipment, normal wear and tear excluded.

4.3. **EQUIPMENT TITLE.** Unless Customer is purchasing equipment pursuant to the terms in this Agreement and unless stated differently in this Addendum and the *Motorola's Updated Proposal and Technical Documentation* (Exhibit 3), title to any equipment provided to Customer in connection with the Subscription Services remains vested in Motorola at all times. Any sale of equipment pursuant to this Addendum will be governed by the terms and conditions set forth in the Agreement.

4.4. **ENABLE USERS.** Customer will properly enable its Users to use the Subscription Services, including providing instructions for use, labeling, required notices, and accommodation pursuant to applicable laws, rules, and regulations. Unless otherwise agreed in the Incorporated Documents, Customer will train its Users on proper operation of the Solution and Licensed Products. Customer agrees to require Users to acknowledge and accept the limitations and conditions of use of the Licensed Products in this Addendum prior to allowing Users to access or use Subscription Services.

4.5. **NON-PRECLUSION.** If, as a result of the Subscription Services performed under this Addendum, Motorola recommends that Customer purchase products or other services, nothing in this Addendum precludes Motorola from participating in a competitive opportunity or otherwise offering or selling the recommended products or other services to Customer. Customer represents that this paragraph does not violate its procurement or other laws, regulations, or policies.

5. **SUBSCRIPTION FEES.** As set forth in the Primary Agreement.

6. **ACCEPTANCE, SCHEDULE**

- 6.1. The Licensed Products will be deemed accepted upon the delivery of usernames and passwords or other validation mechanism to Customer. If usernames and passwords have been issued to Customer prior to the Effective Date, the Licensed Products will be deemed accepted on the Effective Date.
- 6.2. **SCHEDULE.** All Subscription Services will be performed in accordance with the performance schedule included in the *Motorola's Updated Proposal and Technical Documentation* (Exhibit 3), or if there is no performance schedule, within a commercially reasonable time period.

7. LIMITED LICENSE

- 7.1. **LICENSED PRODUCTS.** Use of the Licensed Products by Customer and its Users is strictly limited to use in connection with the Solution or Subscription Services during the Term. Customer and Users will refrain from, and will require others to refrain from, doing any of the following with regard to the Software in the Solution: (i) directly or indirectly, by electronic or other means, copy, modify, or translate the Software; (ii) directly or indirectly, by electronic or other means, reproduce, reverse engineer, distribute, sell, publish, commercially exploit, rent, lease, sublicense, assign or otherwise transfer or make available the Licensed Products or any part thereof to any third party, or otherwise disseminate the Licensed Product in any manner; (iii) directly or indirectly, by electronic or other means, modify, decompile, or disassemble the Software or part thereof, or attempt to derive source code from the Software; or (iv) remove any proprietary notices, labels, or marks on the Software or any part of the Licensed Products. Motorola Solutions reserves all rights to the Software and other Licensed Products not expressly granted herein, including without limitation, all right, title and interest in any improvements or derivatives conceived of or made by Motorola that are based, either in whole or in part, on knowledge gained from Customer Data. Customer agrees to abide by the copyright laws of the United States and all other relevant jurisdictions, including without limitation, the copyright laws where Customer uses the Solution. Customer agrees to immediately cease using the Solution if it fails to comply with this paragraph or any other part of this Addendum. If Software is subject to a click wrap, end user license agreement or is otherwise packaged with or subject to a separate end user license, such license will apply to the use of Software and Licensed Product.
- 7.2. **PROPRIETARY RIGHTS.** Regardless of any contrary provision in this Addendum, Motorola or its third party providers own and retain all of their respective Proprietary Rights in the Software, Solution, and Licensed Product. Nothing in this Addendum is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by Motorola in connection with providing Services to Customer remain vested exclusively in Motorola, and this Addendum does not grant to Customer any shared development rights of intellectual property. No custom development work is to be performed under this Addendum.

8. DATA AND FEEDBACK. As set forth in Addendum A.

9. WARRANTY

- 9.1. **"AS IS".** THE SUBSCRIPTION SERVICES AS THEY RELATE TO CARRIERS OR THIRD PARTIES ARE PROVIDED "AS IS". MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED FOR THESE THIRD PARTY OR CARRIER SERVICES. Customer acknowledges that the Deliverables may contain recommendations, suggestions or advice from Motorola to Customer (collectively, "Recommendations"). Motorola makes no warranties concerning those Recommendations, and Customer alone accepts responsibility for choosing whether and how to implement the Recommendations and the results to be realized from implementing them.
- 9.2. **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 Motorola's control, including databases managed by Customer or third parties and Customer's existing equipment,

software, and Customer Data. Therefore, Motorola 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. Customer agrees not to represent to any third party that Motorola has provided such guarantee.

9.3. EQUIPMENT SALE. Warranty for any equipment sold pursuant to this Addendum will be set forth in the Primary Agreement.

10. DISCLAIMERS

10.1. EXISTING EQUIPMENT AND SOFTWARE. If Customer's existing equipment and software is critical to operation and use of the Subscription Services, Customer is solely responsible for supporting and maintaining Customer's existing equipment and software. Connection to or interface with Customer's existing equipment and software may be required to receive Subscription Services. Any failures or deficiencies of Customer's existing equipment 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.

10.2. PRIVACY. Customer bears sole 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 sole 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 sole responsibility. Motorola 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. Further, if the Solution or Subscription Services are available to the general public pursuant to this Addendum, Customer will provide the appropriate privacy notification. Neither Motorola nor Customer can provide any assurance of individual privacy in connection with the Solution. Further, Customer is solely responsible for determining whether and how to use data gathered from social media sources for the purpose of criminal investigations or prosecution.

10.3. SOCIAL MEDIA. If Customer purchases Subscription Services that utilize social media, Customer acknowledges and agrees that such Subscription Services are not designed to ensure individual privacy. In such case, Customer will inform Users that the Solution and Subscription Services may enable visibility to PII, as well as physical location of individuals. Further, if the Solution or Subscription Services are available to the general public pursuant to this Addendum, Customer will provide the appropriate privacy notification. Neither Motorola nor Customer can provide any assurance of individual privacy in connection with the Solution or Subscription Services utilizing social media. Further, Customer is solely responsible for determining whether and how to use data gathered from social media sources for the purpose of criminal investigations or prosecution.

10.4. MISUSE. Motorola reserves the right to discontinue service at any time without notice to Users that misuse the Service, jeopardize the Licensed Product or public safety in any way.

11. LIABILITY LIMIT.

11.1. Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise, will be limited to the direct damages recoverable under law,

but not to exceed the price \$500,000.00. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOODWILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS ADDENDUM OR THE PERFORMANCE OF THE SUBSCRIPTION SERVICES BY MOTOROLA. This limitation of liability provision survives the expiration or termination of this Addendum and applies notwithstanding any contrary provision. No action for contract breach or otherwise relating to the transactions contemplated by this Addendum may be brought more than two (2) year after the accrual of the cause of action, except for money due upon an open account.

11.2. ADDITIONAL DISCLAIMERS. MOTOROLA 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 MOTOROLA; 2) PERFORMANCE OF CUSTOMER'S EXISTING 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 SERVICE; 4) AVAILABILITY OR ACCURACY OF SOLUTION DATA; 5) INTERPRETATION, USE OR MISUSE IN ANY WAY OF SOLUTION DATA; 6) TRACKING, AND LOCATION BASED SERVICES, BREACH OF PRIVACY, AND THE USE OR MISUSE OF PERSONALLY IDENTIFIABLE INFORMATION.

11.3. ESSENTIAL TERM. The parties acknowledge that the prices have been set and the Addendum entered into in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the parties.

12. DEFAULT AND TERMINATION

12.1. DEFAULT BY A PARTY. As set forth in Addendum A.

12.2. FAILURE TO CURE. As set forth in Addendum A.

12.3. NO RETURN. If a subscription is terminated for any reason prior to the end of the Subscription Services Term or other subscription period set forth in the Incorporated Documents or otherwise agreed to in writing by the Parties, no refund or credit will be provided.

12.4. RETURN CONFIDENTIAL INFORMATION. Upon termination or expiration of Subscription Services, Customer will return or certify the destruction of all Confidential Information and Solution Data.

12.5. CONNECTION TERMINATION. Certain Subscription Services require a connection to Customer systems to access Customer Data (e.g. predictive or analytic services). Upon termination, connection to relevant data sources will be disconnected and Motorola will no longer extract any Customer Data.

13. DISPUTES. As set forth in the Primary Agreement and Addendum A.

14. SECURITY.

14.1. INDUSTRY STANDARD. Motorola will maintain industry standard security measures to protect the

Solution from intrusion, breach, or corruption. During the term of Contract, if the Solution enables access to Criminal Justice Information (“CJI”), as defined by the Criminal Justice Information Services Security Policy (“CJIS”), Motorola will provide and comply with a CJIS Security Addendum. Any additional Security measure desired by Customer may be available for an additional fee.

14.2. **BACKGROUND CHECKS.** Motorola will require its personnel that access CJI to submit to a background check based on submission of FBI fingerprint cards.

14.3. **CUSTOMER SECURITY MEASURES.** Customer is independently responsible for establishing and maintaining its own policies and procedures and for ensuring compliance with CJIS and other security requirements that are outside the scope of the Subscription Services provided. Customer must establish and ensure compliance with access control policies and procedures, including password security measures. Further, Customer must maintain industry standard security and protective data privacy measures. Motorola disclaims any responsibility or liability whatsoever for the security or preservation of Customer Data or Solution Data once accessed or viewed by Customer or its representatives. Motorola further disclaims any responsibility or liability whatsoever that relates to or arise from Customer’s failure to maintain industry standard security and data privacy measures and controls, including but not limited to lost or stolen passwords. Motorola reserves the right to terminate the Service if Customer’s failure to maintain or comply with industry standard security and control measures negatively impacts the Service, Solution, or Motorola’s own security measures.

14.4. **BREACH RESPONSE PLAN.** Both parties will maintain and follow a breach response plan consistent with the standards of their respective industries.

15. CONFIDENTIAL INFORMATION AND PROPRIETARY RIGHTS. As set forth in Addendum A.

16. GENERAL. As set forth in the Primary Agreement and in Addendum A.

16.1. **AUTHORITY TO EXECUTE ADDENDUM.** Each Party represents that it has obtained all necessary approvals, consents and authorizations to enter into this Addendum and to perform its duties under this Addendum; the person executing this Addendum on its behalf has the authority to do so; upon execution and delivery of this Addendum by the parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Addendum does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.

16.2. **SURVIVAL OF TERMS.** The following provisions survives the expiration or termination of this Addendum for any reason: if any payment obligations exist, Section 5 (Subscription Fees).

**EXHIBIT 5
SYSTEM ACCEPTANCE CERTIFICATE**

Customer Name: County of Dinwiddie

Project Name: Dinwiddie County Public Safety Radio Communication System

This System Acceptance Certificate memorializes the occurrence of System Acceptance. Motorola and Customer acknowledge that:

1. The Acceptance Tests set forth in the Acceptance Test Plan have been successfully completed.
2. The System is accepted.

Customer Representative:

Motorola Representative:

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

FINAL PROJECT ACCEPTANCE:

Motorola has provided and Customer has received all deliverables, and Motorola has performed all other work required for Final Project Acceptance.

Customer Representative:

Motorola Representative:

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____