

## ADDENDUM

### FOR THE QUANTITY PURCHASE AGREEMENT FOR PROJECT 25 COMPLIANCE ASSESSMENT PROGRAM ("P25 CAP") RADIO EQUIPMENT, MAINTENANCE, REPAIR, PARTS, AND ACCESSORIES

**Contract # 0000000000000000000028642**

This Addendum is entered into by and between the Indiana Department of Administration on behalf of the Integrated Public Safety Commission and all state agencies ("the State") and the entity designated as "Contractor" below.

The purpose of this Addendum is to modify, delete, or amend certain terms and conditions set forth in the attached Form Contract prepared by Contractor (the "Form Contract"). This Addendum and the Form Contract are incorporated into each other and, when read together, shall constitute one integrated document ("this Contract"). Any inconsistency, conflict, or ambiguity between this Addendum and the Form Contract shall be resolved by giving precedence and effect to this Addendum.

The parties enter into this Addendum to establish a Quantity Purchase Agreement ("QPA") for the products and services as described herein pursuant to the terms and conditions set out below.

#### Definitions:

- A. The "State" means the State of Indiana executive branch agencies, the judicial branch, the legislative branch, and separately elected statewide officers.
- B. "Other Governmental Entities" means any Indiana county, municipality, municipal corporation, state educational institution, school corporation, city or county hospital, or bodies corporate and politic.

Contractor Name: Harris Corporation

Contractor Address: 221 Jefferson ridge Parkway, Lynchburg, VA 24501

Title of Form Contract: Master Services Agreement Terms and Conditions **[Attachment A]**, End User License Agreement for Harris BeOn Software Application **[Attachment B]**, Warranty **[Attachment C]**, and Battery Warranty **[Attachment F]** attached and incorporated herein.

#### 1. Form Contract/Duties of Contractor.

The Contractor or its Authorized Resellers/Dealers will provide Project 700/800 MHz P25 radio equipment, maintenance, repair, parts and accessories for use on the statewide 800 MHz interoperable public safety communications. The scope of products in this contract include P25 compliant base stations, repeaters, mobile radios, portable radios and vehicular repeaters only as set out in more detail below and in all other exhibits and attachments to this contract referenced below and as described and incorporated in Paragraph 35 [Incorporation by Reference]:

The entirety of the Contractor's response to RFI #18-020 being hereby incorporated by reference, even though a complete copy of such Contractor's response to RFI #18-020 is not attached hereto due to its volume and the parties' acknowledgement that each of them has ready access to a complete copy.

The entirety of the State of Indiana RFI #18-020 being hereby incorporated by reference, even though a complete copy of such RFI #18-020 is not attached hereto due to its volume and the parties' acknowledgement that each of them has ready access to a complete copy.

- A. Authorized Reseller/Dealers. The Contractor provides goods and services directly and primarily through Authorized Resellers/Dealers. All orders for the state agencies shall be fulfilled through the Contractor directly while orders for the other governmental entities can be fulfilled through use of authorized resellers/dealers approved by the Integrated Public Safety Commission (IPSC). Each Authorized Reseller/Dealer approved by the State pursuant to this QPA must (i) be registered to do business with the Indiana Secretary of State, and have agreed to accept the terms and conditions of this QPA when accepting an order placed on behalf of the State.

- B. Contractor Oversight of Authorized Resellers/Dealers. The Contractor will work with the State to (1) properly onboard Authorized Resellers/Dealers such that they are fully aware of statewide contract parameters, (2) manage de-certification or off-boarding of Authorized Resellers/Dealers from servicing statewide entities under this contract, and (3) assist in the resolution of any escalated customer issue. The Contractor will track the performance of Authorized Resellers/Dealers to ensure that quality and service levels are maintained and that applicable Contractor certification requirements are met based on specialty of services requested under this QPA. The Contractor will facilitate regular meetings to review QPA progress and Authorized Business Dealer's performance. The Contractor may remove, without approval of the State, or add Authorized Resellers/Dealers, with approval of the State, throughout the life of this QPA. The Contractor should notify the State when changes occur by email to [dcochrane@ipsc.IN.gov](mailto:dcochrane@ipsc.IN.gov), [nocipsc@ipsc.IN.gov](mailto:nocipsc@ipsc.IN.gov), and [mhempel@idoa.IN.gov](mailto:mhempel@idoa.IN.gov).
- C. Goods and Services Provided. The Contractor or its Authorized Resellers/Dealers shall provide the equipment, software, and services set forth in the Form Contract attached and incorporated as **Attachment D [Target Pricing]**.
- a. New products and/or services that meet the scope of the work may be added to the contract on an annual basis. Pricing shall be equivalent to the percentage discount for existing products. Contractor may replace or add product lines to this contract if the line is replacing or supplementing products on contract, is equal or superior to the original products offered, is discounted in a similar or to a greater degree, and if the products meet the requirements of the solicitation.
- D. Orders Placement through Authorized Reseller/Dealer. All Authorized Resellers/Dealers are eligible to quote pricing for procurements under this QPA. The Contractor will not, directly or indirectly, restrict any Authorized Reseller's/Dealer's participation or ability to quote pricing under this QPA. An Authorized Reseller/Dealer will not offer less favorable pricing as reflected in the QPA rates described in the Consideration. Any additional incremental discounts or spot pricing, if offered, may be provided in the discretion and as the sole legal obligation of the Authorized Reseller/Dealer. All requests for quotes and purchase orders placed by the State shall reference this QPA.
- E. Authorized Reseller/Dealer Invoicing. Each Authorized Reseller/Dealer may directly receive a purchase order, submit invoices for its own account, and receive payments in its own name. The Contractor shall make no claim against the State or any Other Governmental Entity for any payment dispute between the Contractor and an Authorized Reseller/Dealer.
- F. Other Governmental Entities may purchase from this QPA by the means of a Purchase Order, a Statement of Work, or such other document as is acceptable to the Contractor and the Government Entity.
- G. Training. The Contractor shall conduct comprehensive training to instruct IPSC personnel and twice annually to instruct subscriber personnel in the proper programming of the equipment to ensure correct operation of the equipment.
- H. Technical Support. The Contractor will provide details about and technical support to subscriber entities including, but not limited to field service bulletins, installation and operation manuals, and telephone support for technical inquiries.
- I. Service Level Agreements (SLAs) and Key Metrics. The Contractor shall demonstrate a high level of quality control standards and guarantees of service. The Contractor shall tabulate the actual Metrics outcome outlined in **Attachment E** and present the results periodically as requested by the State.

**2. Term.** This contract shall be effective for a period of three (3) years after the date of the last State signatory.

**3. Consideration.**

- A. The products and/or services quoted shall be for the purchase of products and/or services meeting the specifications requested (products will meet published specification). The discounts and rates listed in **Attachment D** will be consistent as equipment is updated annually over the contract term. No additional charge may be requested later.
- B. The Contractor or its Authorized Resellers/Dealers will invoice the State or Other Governmental Entity directly for products and/or services for which it received a Purchase Order. All invoices must reference this QPA. The State

will not be responsible or financially liable for any orders placed, goods provided, or work performed for any Other Governmental Entity as defined above.

- C. The Contractor will receive no direct financial remuneration from the State for goods and services for the purchases by the State under this QPA made directly with the Authorized Reseller/Dealer, it being understood that the Contractor's remuneration for indirect orders derives from its agreements with its Authorized Resellers/Dealers.
- D. By mutual agreement of the parties, the following terms and conditions are deleted from the Form Contract:
- a. Any provision requiring the State of Indiana to provide insurance
  - b. Any provision requiring the State of Indiana to provide indemnity
  - c. Any provision providing that the Contract be construed in accordance with laws other than those of the State of Indiana
  - d. Any provision providing that suit be brought in any state other than Indiana
  - e. Any provision providing for resolution of contract disputes
  - f. Any provision requiring the State of Indiana to pay any taxes
  - g. Any provision requiring the State of Indiana to pay penalties, liquidated damages, interest or attorney's fees
  - h. Any provision modifying the applicable Indiana statute of limitations
  - i. Any provision relating to the time within which a claim must be made.
  - j. Any provision requiring payment of consideration in advance unless authorized by an exception listed in IC §4-13-2-20
  - k. Any provision limiting disclosure of the contract in violation of the Access to Public Records Act, IC §5-14-3. This is a Public Contract and will be posted on the State's website pursuant to transparency portal as required by IC § 5-14-3.5-2.
  - l. Any provision requiring payment in less than 35 days
  - m. Any provision providing for automatic renewal
  - n. Any provision giving the Form Contract precedence over this Addendum

**4. Access to Records.** The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

**5. Assignment; Successors.**

A. The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

B. The Contractor shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. Additionally, the Contractor shall provide prompt written notice to the State of any change in the Contractor's legal name or legal status so that the changes may be documented and payments to the successor entity may be made.

**6. Assignment of Antitrust Claims.** As part of the consideration for the award of this Contract, the Contractor assigns to the State all rights, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

**7. Audits.** The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC § 5-11-1, *et seq.*, and audit guidelines specified by the State.

The State considers the Contractor to be a "Contractor" under 2 C.F.R. 200.330 for purposes of this Contract. However, if it is determined that the Contractor is a "subrecipient" and if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), Contractor shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 *et seq.*

**8. Authority to Bind Contractor.** The signatory for the Contractor represents that he/she has been duly authorized to

execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by the State.

**9. Changes in Work.** The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

**10. Compliance with Laws.**

A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, *et seq.*, IC § 4-2-7, *et seq.* and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract.** If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.

F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.

G. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

H. As required by IC § 5-22-3-7:

(1) The Contractor and any principals of the Contractor certify that:

(A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:

(i) IC § 24-4.7 [Telephone Solicitation Of Consumers];

(ii) IC § 24-5-12 [Telephone Solicitations]; or

(iii) IC § 24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

(B) the Contractor will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC § 24-4.7 is preempted by federal law.

(2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor, except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC § 24-4.7 is preempted by federal law.

**11. Condition of Payment.** All services provided by the Contractor under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of any federal, state or local statute, ordinance, rule or regulation.

**12. Confidentiality of State Information.** The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract will not be disclosed to or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by Contractor for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC § 4-1-10 and IC § 4-1-11. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

**13. Continuity of Services.**

A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the State and must be continued without interruption and that, upon Contract expiration, a successor, either the State or another contractor, may continue them. The Contractor agrees to:

1. Furnish phase-in training; and
2. Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

B. The Contractor shall, upon the State's written notice:

1. Furnish phase-in, phase-out services for up to sixty (60) days after this Contract expires; and
2. Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the State's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Contract are maintained at the required level of proficiency.

C. The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this Contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

D. The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations).

**14. Debarment and Suspension.**

A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs

that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

**15. Default by State.** If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute measures to collect monies due up to and including the date of termination.

**16. Disputes.**

A. Should any disputes arise with respect to this Contract, the Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the State for such costs.

C. If the parties are unable to resolve a contract dispute between them after good faith attempts to do so, a dissatisfied party shall submit the dispute to the Commissioner of the Indiana Department of Administration for resolution. The dissatisfied party shall give written notice to the Commissioner and the other party. The notice shall include (1) a description of the disputed issues, (2) the efforts made to resolve the dispute, and (3) a proposed resolution. The Commissioner shall promptly issue a Notice setting out documents and materials to be submitted to the Commissioner in order to resolve the dispute; the Notice may also afford the parties the opportunity to make presentations and enter into further negotiations. Within thirty (30) business days of the conclusion of the final presentations, the Commissioner shall issue a written decision and furnish it to both parties. The Commissioner's decision shall be the final and conclusive administrative decision unless either party serves on the Commissioner and the other party, within ten (10) business days after receipt of the Commissioner's decision, a written request for reconsideration and modification of the written decision. If the Commissioner does not modify the written decision within thirty (30) business days, either party may take such other action helpful to resolving the dispute, including submitting the dispute to an Indiana court of competent jurisdiction. If the parties accept the Commissioner's decision, it may be memorialized as a written Amendment to this Contract if appropriate.

D. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for the Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

E. With the written approval of the Commissioner of the Indiana Department of Administration, the parties may agree to forego the process described in subdivision C. relating to submission of the dispute to the Commissioner.

F. This paragraph shall not be construed to abrogate provisions of IC § 4-6-2-11 in situations where dispute resolution efforts lead to a compromise of claims in favor of the State as described in that statute. In particular, releases or settlement agreements involving releases of legal claims or potential legal claims of the state should be processed consistent with IC § 4-6-2-11, which requires approval of the Governor and Attorney General.

**17. Drug-Free Workplace Certification.** As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

**18. Employment Eligibility Verification.** As required by IC § 22-5-1.7, the Contractor swears or affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor further agrees that:

- A. The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.
- B. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.
- C. The Contractor shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

**19. Employment Option.** If the State determines that it would be in the State's best interest to hire an employee of the Contractor, the Contractor will release the selected employee from any non-competition agreements that may be in effect. This release will be at no cost to the State or the employee.

**20. Force Majeure.** In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

**21. Funding Cancellation.** As required by Financial Management Circular 2007-1 and IC § 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

**22. Governing Law.** This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

**23. HIPAA Compliance.** If this Contract involves services, activities or products subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Contractor covenants that it will appropriately safeguard Protected Health Information (defined in 45 CFR 160.103), and agrees that it is subject to, and shall comply with, the provisions of 45 CFR 164 Subpart E regarding use and disclosure of Protected Health Information.

**24. Indemnification.** The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State will not provide indemnification to the Contractor.

**25. Independent Contractor; Workers' Compensation Insurance.** The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

**26. Indiana Veteran Owned Small Business Enterprise Compliance.** Award of this Contract was based, in part, on the Indiana Veteran Owned Small Business Enterprise ("IVOSB") participation plan, as detailed in the IVOSB Subcontractor Commitment Form, commonly referred to as "Attachment A-1" in the procurement documentation and incorporated by reference herein. Therefore, any changes to this information during the Contract term must be approved by IDOA's IVOSB Division ("IVOSB Division") and may require an amendment. It is the State's expectation that the Contractor will meet the subcontractor commitments during the Contract term. The following certified IVOSB subcontractor(s) will be participating in this Contract:

IVOSB	COMPANY NAME	PHONE	EMAIL OF CONTACT PERSON	PERCENT
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NOT APPLICABLE

A copy of each subcontractor agreement must be submitted to the IVOSB Division within thirty (30) days of the effective date of this Contract. The subcontractor agreements may be uploaded into Pay Audit (Indiana's subcontractor payment auditing system), emailed to [IndianaVeteransPreference@idoa.IN.gov](mailto:IndianaVeteransPreference@idoa.IN.gov), or mailed to IDOA, 402 W. Washington Street, Room W-478, Indianapolis, IN 46204. Failure to provide a copy of any subcontractor agreement may be deemed a violation of the rules governing IVOSB procurement and may result in sanctions allowable under 25 IAC 9-5-2. Requests for changes must be submitted to [IndianaVeteransPreference@idoa.IN.gov](mailto:IndianaVeteransPreference@idoa.IN.gov) for review and approval before changing the participation plan submitted in connection with this Contract.

The Contractor shall report payments made to certified IVOSB subcontractors under this Contract on a monthly basis using Pay Audit. The Contractor shall notify subcontractors that they must confirm payments received from Contractor in Pay Audit. The Pay Audit system can be accessed on the IDOA webpage at: [www.in.gov/idoa/mwbe/payaudit.htm](http://www.in.gov/idoa/mwbe/payaudit.htm). The Contractor may also be required to report IVOSB certified subcontractor payments directly to the IVOSB Division, as reasonably requested and in the format required by the IVOSB Division.

The Contractor's failure to comply with the provisions in this clause may be considered a material breach of the Contract.

**27. Information Technology Enterprise Architecture Requirements.** If this Contract involves information technology-related products or services, the Contractor agrees that any such products or services are compatible with the technology standards, including the assistive technology standard, all found at <https://www.in.gov/iot/2394.htm>. The State may terminate this Contract for default if the terms of this paragraph are breached.

**28. Insurance.**

A. The Contractor and its subcontractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering claims that result from Contractor's performance under this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.



2. Automobile liability for owned, non-owned and hired autos with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.
3. Errors and Omissions liability with minimum liability limits of \$1,000,000 per claim and in the aggregate. Coverage for the benefit of the State shall continue for a period of two (2) years after the date of service provided under this Contract.
4. Surety or Fidelity Bond(s) if required by statute or by the agency.
5. Cyber Liability if requested by the State addressing risks associated with electronic transmissions, the internet, networks and informational assets, and having limits of no less than \$700,000 per occurrence and \$5,000,000 in the aggregate.

The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of workers' compensation coverage meeting all statutory requirements of IC §22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

B. The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority or other appropriate authorization to operate in the state in which the policy was issued.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
3. The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.
4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled without thirty (30) days' prior written notice to the undersigned State agency.
5. The Contractor waives and agrees to require their insurer to waive their rights of subrogation against the State of Indiana.

C. Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

## **29. Key Person(s).**

A. If both parties have designated that certain individual(s) are essential to the services offered, the parties agree that should such individual(s) leave their employment during the term of this Contract for whatever reason, the State shall have the right to terminate this Contract upon thirty (30) days' prior written notice.

B. In the event that the Contractor is an individual, that individual shall be considered a key person and, as such, essential to this Contract. Substitution of another for the Contractor shall not be permitted without express written consent of the State.

Nothing in sections A and B, above shall be construed to prevent the Contractor from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of the key person. Examples of such ancillary tasks include secretarial, clerical, and common labor duties. The Contractor shall, at all times, remain responsible for the performance of all necessary tasks, whether performed by a key person or others.

Key person(s) to this Contract is/are: NOT APPLICABLE.

**30. Licensing Standards.** The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be

provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules, or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification, or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

**31. Merger & Modification.** This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties.

**32. Minority and Women's Business Enterprises Compliance.**

Award of this Contract was based, in part, on the Minority and/or Women's Business Enterprise ("MBE" and/or "WBE") participation plan as detailed in the Minority and Women's Business Enterprises Subcontractor Commitment Form, commonly referred to as "Attachment A" in the procurement documentation and incorporated by reference herein. Therefore, any changes to this information during the Contract term must be approved by MWBE Compliance and may require an amendment. It is the State's expectation that the Contractor will meet the subcontractor commitments during the Contract term.

The following MBE/WBE Division ("Division") certified MBE and/or WBE subcontractors will be participating in this Contract:

MBE or WBE	COMPANY NAME	PHONE	EMAIL OF CONTACT PERSON	PERCENT
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NOT APPLICABLE

A copy of each subcontractor agreement must be submitted to the Division within thirty (30) days of the effective date of this Contract. The subcontractor agreements may be uploaded into Pay Audit (Indiana's subcontractor payment auditing system), emailed to [MWBECompliance@idoa.IN.gov](mailto:MWBECompliance@idoa.IN.gov), or mailed to MWBE Compliance, 402 W. Washington Street, Indianapolis IN 46204. Failure to provide a copy of any subcontractor agreement may be deemed a violation of the rules governing MBE/WBE procurement and may result in sanctions allowable under 25 IAC 5-7-8. Requests for changes must be submitted to [MWBECompliance@idoa.IN.gov](mailto:MWBECompliance@idoa.IN.gov) for review and approval before changing the participation plan submitted in connection with this Contract.

The Contractor shall report payments made to Division certified subcontractors under this Contract on a monthly basis using Pay Audit. The Contractor shall notify subcontractors that they must confirm payments received from Contractor in Pay Audit. The Pay Audit system can be accessed on the IDOA webpage at: [www.in.gov/idoa/mwbe/payaudit.htm](http://www.in.gov/idoa/mwbe/payaudit.htm). The Contractor may also be required to report Division certified subcontractor payments directly to the Division, as reasonably requested and in the format required by the Division.

The Contractor's failure to comply with the provisions in this clause may be considered a material breach of this Contract.

**33. Nondiscrimination.** Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

The State is a recipient of federal funds, and therefore, where applicable, Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

**34. Notice to Parties.** Whenever any notice, statement or other communication is required under this Contract, it will be sent by E-mail or first class U.S. mail service to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:  
Indiana Department of Administration  
Attn: Account Management  
Indiana Government Center South, Room W468  
Indianapolis, IN 46204

B. Notices to the Contractor shall be sent to:  
Harris Corporation  
Attn: Toby LePeak  
3516 Wayland Dr.  
Jackson, MI 49201

As required by IC §4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana Auditor of State.

**35. Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) this Addendum, (2) the Form Contract, (3) attachments prepared by the State, (4) Contractor's Response to RFI #18-020, (5) RFI #18-020, and (6) attachments prepared by the Contractor. All attachments, and all documents referred to in this paragraph, are hereby incorporated fully by reference.

**36. Ownership of Documents and Materials.**

A. All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of the State. If ownership interest in the Materials cannot be assigned to the State, the Contractor grants the State a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy and create derivative works of the Materials.

B. Use of the Materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by the State and used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the State full, immediate, and unrestricted access to the Materials and to Contractor's work product during the term of this Contract.

**37. Payments.**

A. All payments shall be made thirty five (35) days in arrears in conformance with State fiscal policies and procedures and, as required by IC § 4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC § 4-13-2-20.

B. If the Contractor is being paid in advance for the maintenance of equipment, software or a service as a subscription, then pursuant to IC § 4-13-2-20(b)(14), the Contractor agrees that if it fails to fully provide or perform under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

**38. Penalties/Interest/Attorney's Fees.** The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC § 5-17-5, IC § 34-54-8, IC § 34-13-1 and IC § 34-52-2-3.

Notwithstanding the provisions contained in IC § 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

**39. Progress Reports.** The Contractor shall submit progress reports to the State upon request. The report shall be oral, unless the State, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

**40. Public Record.** The Contractor acknowledges that the State will not treat this Contract as containing confidential information, and will post this Contract on the transparency portal as required by IC § 5-14-3.5-2. Use by the public of the information contained in this Contract shall not be considered an act of the State.

**41. Renewal Option.** This Contract may be renewed under the same terms and conditions, subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC § 5-22-17-4. The term of the renewed contract may not be longer than the term of the original contract.

**42. Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

**43. Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

**44. Taxes.** The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

**45. Termination for Convenience.** This Contract may be terminated, in whole or in part, by the State, which shall include and is not limited to the Indiana Department of Administration (IDOA) and the State Budget Agency whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date. For the purposes of this paragraph, the parties stipulate and agree that IDOA shall be deemed to be a party to this Contract with authority to terminate the same for convenience when such termination is determined by the Commissioner of IDOA to be in the best interests of the State.

**46. Termination for Default**

A. With the provision of thirty (30) days' notice to the Contractor, the State may terminate this Contract in whole or in part if the Contractor fails to:

1. Correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond thirty (30) days if the State determines progress is being made and the extension is agreed to by the parties;
2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
3. Make progress so as to endanger performance of this Contract; or
4. Perform any of the other provisions of this Contract.

B. If the State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

C. The State shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

D. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

**47. Travel.** Expenditures made by the Contractor for travel will be reimbursed at the rate paid by the State and in accordance with the Budget Agency's *Financial Management Circular -- Travel Policies and Procedures* in effect at the time the expenditure is made. Out-of-state travel requests must be reviewed by the State for availability of funds and for conformance with *Circular* guidelines.

**48. Waiver of Rights.** No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance

of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

**49. Work Standards.** The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

**50. State Boilerplate Affirmation Clause.** I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State's standard contract clauses (as contained in the *2018 OAG/ IDOA Professional Services Contract Manual* or the *2018 SCM Template*) in any way except as follows:

- #1 Form Contract/Duties of Contractor – updated
- #2 Term – updated
- #3 Consideration – updated
- #28 Insurance – modified
- #34 Notice to Parties – updated
- #35 Order of Precedence; Incorporation by Reference – modified

## Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

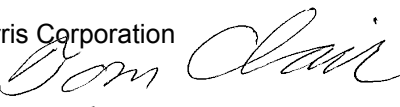
### Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Contract by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Contract to the State of Indiana. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein. I understand that this Contract will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database:

[https://hr85.gmis.in.gov/psp/pa91prd/EMPLOYEE/EMPL/h/?tab=PAPP\\_GUEST](https://hr85.gmis.in.gov/psp/pa91prd/EMPLOYEE/EMPL/h/?tab=PAPP_GUEST)

**In Witness Whereof**, the Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.

Harris Corporation

By:   
Tom Clair

Title: Contracts Manager

Date: 10/19/2018

Indiana Department of Administration

By:

Title:

Date:

Electronically Approved by: Indiana Office of Technology  By: _____ (for) Dewand Neely, Chief Information Officer <i>Refer to Electronic Approval History found after the final page of the Executed Contract for details.</i>	Electronically Approved by: Department of Administration  By: _____ (for) Lesley A. Crane, Commissioner <i>Refer to Electronic Approval History found after the final page of the Executed Contract for details.</i>
Electronically Approved by: State Budget Agency  By: _____ (for) Jason D. Dudich, Director <i>Refer to Electronic Approval History found after the final page of the Executed Contract for details.</i>	Electronically Approved as to Form and Legality: Office of the Attorney General  By: _____ (for) Curtis T. Hill, Jr., Attorney General <i>Refer to Electronic Approval History found after the final page of the Executed Contract for details.</i>



## **MASTER SERVICES AGREEMENT TERMS AND CONDITIONS**

### **1. DEFINITIONS.**

Definitions are those set out in the Definitions attached to this Agreement.

### **2. SCOPE.**

This Agreement describes the terms and conditions for **(a.)** purchases by Customer of Services and **(b.)** delivery by Harris of the Services to Customer or otherwise delivered by Harris to Customer. Harris shall provide the Services described in this Agreement or other document(s) attached to and made part of this Agreement. **(c.)** SOWs may contain definitions, terms and conditions specific to that SOW. **(d.)** At Customer's request, Harris may also provide Demand Services at Harris' Demand Services rates. **(e.)** All Services provided under this Agreement are only applicable to the Equipment listed in the Equipment List attached to this Agreement.

### **3. CONDITIONS OF SERVICE.**

**(a.)** All Equipment must be in good working order on the Commencement Date of this Agreement or for additional Equipment at the time the additional Equipment is added to the Agreement. **(b.)** On the Commencement Date of this Agreement, or within thirty (30) days of the Commencement Date, Customer shall provide Harris with an Equipment serial number list of all Equipment to be covered under this Agreement. **(c.)** Customer must promptly notify Harris of any Equipment failure or when any Equipment is lost, damaged, stolen or taken out of service. **(d.)** If Customer purchases additional Equipment that becomes part of the same system as the initial Equipment, the additional Equipment may be added to this Agreement and will be billed at the applicable rates after the original warranty for such Equipment expires. **(e.)** Customer is solely responsible for obtaining and complying with any necessary permits and licenses from the Federal Communications Commission, or any other Federal, State, tribal or local governmental authority, related to the purchase, installation, erection and operation of any Equipment hereunder.

### **4. SITE ACCESS, SERVICE TIMES.**

**(a.)** If applicable, on-site Response Times are based on the assumption that the site is accessible by normal transportation methods and vehicles. On-site Response Time requirements exclude site locations that require extensive drive time due to traffic conditions or site locations where specialized vehicles are required. **(b.)** Customer is responsible to ensure that all necessary clearances, escorts, ID cards, network access requirements including custom software or security credentials, or other special requirements have been provided to Harris in advance to allow technicians prompt access to any Equipment requiring service that may be located in a secured or limited access area under

Customer's control. **(c.)** Customer agrees to provide Harris an appropriate work environment and unlimited access, working space including heat, light ventilation, electric current and outlets, and local wireless and telephone access for the use of Harris' service personnel in the Equipment's physical location. **(d.)** Customer shall be billed at Demand Services rates for time lost or changes due to any delay caused by Customer in the provision or execution of the Services.

### **5. PAYMENT TERMS.**

**(a.)** Payment terms shall be net thirty (30) days from the date of invoice. All amounts past due over thirty (30) days shall accrue interest from their due date at the rate of one and one-half percent (1-1/2%) per month (or such lesser rate as may be the maximum permissible rate under applicable law). **(b.)** Harris may at any time hereafter revise the rates set forth in this Agreement by giving Customer Notice thereof not less than ninety (90) days prior to the rate change, provided that the revised rates are mutually agreed upon in writing. **(c.)** Any taxes related to Services pursuant to this Agreement shall be paid by Customer or Customer shall present an exemption certificate acceptable to the taxing authorities. Applicable taxes shall be billed as a separate item on the invoice, to the extent possible.

### **6. TERM AND TERMINATION.**

**(a.)** The term of this Agreement shall begin on the Commencement Date of the Summary Page to which these Terms and Conditions are attached and shall continue for the period indicated on the Summary Page. **(b.)** In the event Customer fails to make any overdue payments due to Harris under this Agreement within fifteen (15) days after receipt of Notice from Harris, Harris may at its option immediately thereafter terminate this Agreement. In the event of any other default under this Agreement, either Customer or Harris shall give the other party Notice describing the default and a thirty (30) day period to correct the default. This Agreement may then be immediately canceled if the default is not corrected prior to the end of the thirty (30) day period. **(c.)** Harris shall have the right to terminate this Agreement at any time by providing Customer thirty (30) day Notice. **(d.)** If Harris provides Services after the termination or expiration date of this Agreement, the terms and conditions in effect at the time of the termination or expiration date will apply to those Services and Customer agrees to pay for those Services on a time and material basis at Demand Services rates.

### **7. SERVICES NOT COVERED.**

**(a.)** 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,



## MASTER SERVICES AGREEMENT TERMS AND CONDITIONS

misuse, abuse, accident, environmental conditions, liquids, power surges, neglect, acts of God, acts or omissions or delays by Customer or third party, or other force majeure events. **(b.)** Unless specifically included in this Agreement, Services exclude accessory items, or items that are consumed in the normal operation of the Equipment such as batteries, UPS, belt attached objects such as clips or holsters, battery chargers, personal audio interfaces such as footswitches or ear pieces, headsets, keypads, fuses, knobs, lanyards, labels, custom or special products, upgrading or reprogramming Equipment, modified Equipment or software, tower or tower lighting, or repair or maintenance of any transmission path object for voice or data radios including antennas, dishes, masts, tower top amplifiers, transmission lines, tower services, climbs, or parts required to repair any equipment mounted on towers. Harris has no responsibilities for any transmission medium, such as telephone lines, computer networks, the internet or for Equipment malfunction caused by the transmission medium. **(c.)** Excluded are services, hardware, or software, to resolve Software or Equipment problems resulting from third party product or causes beyond Harris' control or failure of Customer to perform Customer's responsibilities set out in this Agreement. **(d.)** Other exclusions may be defined in a SOW or other document attached to this Agreement.

### 8. WARRANTY.

ALL SERVICES PROVIDED HEREUNDER SHALL BE PERFORMED IN A WORKMANLIKE MANNER. EXCEPT AS SPECIFIED IN THIS SECTION, HARRIS HEREBY DISCLAIMS AND CUSTOMER WAIVES ALL REPRESENTATIONS, CONDITIONS, AND WARRANTIES (WHETHER EXPRESS, IMPLIED, OR STATUTORY), INCLUDING WITHOUT LIMITATION, ANY WARRANTY OR CONDITION (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, TITLE, SATISFACTORY QUALITY, QUIET ENJOYMENT, ACCURACY, (B) ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE INDUSTRY. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE DISCLAIMED, SUCH WARRANTY IS LIMITED IN DURATION TO THE APPLICABLE EXPRESS WARRANTY PERIOD. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY SHALL BE, AT HARRIS' OPTION, RE-PERFORMANCE OF THE SERVICES; OR TERMINATION OF THIS AGREEMENT; OR REMOVAL OF THE APPLICABLE EQUIPMENT FROM THE EQUIPMENT LIST OR TERMINATION OF THE APPLICABLE SOW AND RETURN OF THE PORTION OF THE FEES PAID TO HARRIS BY CUSTOMER FOR SUCH NON-CONFORMING SERVICES.

### 9. LIMITATION OF LIABILITY.

NOTHING IN THIS AGREEMENT SHALL LIMIT HARRIS' OR ITS SUPPLIERS' LIABILITY FOR (1) PERSONAL INJURY OR DEATH CAUSED BY ITS NEGLIGENCE; OR (2) HARRIS' LIABILITY IN THE TORT OF DECEIT OR FOR FRAUD. THE LIABILITY OF EITHER PARTY TO THE OTHER OR TO ANY THIRD PARTY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY COLLATERAL CONTRACT, WHETHER IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE) OR OTHERWISE SHALL BE LIMITED TO THE GREATER OF (I) AMOUNTS PAID OR PAYABLE BY CUSTOMER TO HARRIS FOR THE SERVICES DURING THE SIX (6) MONTHS PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY OR (II) ONE HUNDRED THOUSAND (100,000) US DOLLARS. IN THE CASE OF TRANSACTIONAL ADVANCED SERVICES PERFORMED UNDER A SOW, THE LIABILITY OF EITHER PARTY SHALL BE LIMITED TO THE AMOUNT PAID OR PAYABLE BY CUSTOMER TO HARRIS PURSUANT TO THE RELEVANT SOW DURING THE SIX (6) MONTHS PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY. THE LIABILITY OF HARRIS SHALL BE CUMULATIVE AND NOT PER INCIDENT. SUBJECT TO THE EXCEPTIONS SET OUT IN THE FIRST PARAGRAPH OF THIS SECTION, IN NO EVENT SHALL EITHER PARTY OR ITS SUPPLIERS BE LIABLE FOR ANY INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOST PROFITS OR LOST OR DAMAGED DATA, OR ANY INDIRECT DAMAGES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE EVEN IF SUCH LOSSES OR DAMAGES WERE FORESEEN, FORESEEABLE, KNOWN OR OTHERWISE. BY ENTERING INTO THIS AGREEMENT CUSTOMER DOES NOT (A) CONSENT TO SUIT, OR (B) WAIVE ITS GOVERNMENTAL IMMUNITY OR THE LIMITATIONS AS TO DAMAGES.

### 10. COVERAGE, INTERFERENCE, AND THIRD PARTY FACILITIES.

Representations concerning the distance at which usable radio signals will be transmitted and received by the Equipment supplied hereunder shall not be binding upon Harris unless reduced to a writing signed by an authorized representative of Harris and made a part of this Agreement. Radio systems are subject to degradation of service from natural phenomena and other causes beyond the reasonable control of Harris such as motor ignition and other electrical noises, and interference from other users assigned to the same or adjacent frequencies. Harris cannot be responsible for interference or disruption of service caused by operation



## MASTER SERVICES AGREEMENT TERMS AND CONDITIONS

of other radio systems or by natural phenomena or by motor ignition or other interference over which there is no reasonable control. Such interference and noise can be minimized by addition (at Customer's expense) of corrective devices adapted for particular locations and installations. Harris will make recommendations as to the use of such devices; however, total freedom from noise and interference cannot be guaranteed. In the event Customer utilizes facilities or services supplied by others such as common carrier services or shared services, Harris shall have no responsibility for the availability or adequacy of any such facilities or services.

### 11. INSURANCE.

Harris shall obtain and at all times during the term of this Agreement keep in full force and effect comprehensive general liability and auto liability insurance policies issued by a company or companies licensed by the insurance department and authorized to do business in the State(s) of Customer's facilities where with liability coverage provided for therein in the amounts of at least \$1,000,000.00 CSL (Combined Single Limits). Coverage afforded shall apply as primary. Harris shall provide Notice of cancellation or nonrenewal.

### 12. SPARE PARTS, END OF PRODUCTION.

(a.) If Spare Parts are required in the provision or execution of the Services, Customer shall be responsible for the purchase of Spare Parts. Harris will assist Customer in determining the inventory of spares. Customer will order Equipment spares in the same manner in which Customer orders other Equipment. (b.) Harris will generally support provisioning of its Equipment for a period of five (5) years after final production. Harris will endeavor to provide six (6) months advance notice of the final production date. Third Party equipment will be supported in accordance with the individual manufacturer's provisioning policy. Harris will utilize commercially reasonable efforts to assure Third Party spare parts and equipment availability to support its Services under this Agreement. Harris shall not be liable to Customer for Third Party spare part and equipment obsolescence or unavailability under this Agreement beyond its commercially reasonable efforts.

### GENERAL.

(a.) Harris will comply with applicable Federal, State and local laws and regulations as of the date of this Agreement which relate to equal employment opportunity (including applicable provisions of Executive Order 11246, as amended), workmen's compensation, and the manufacture in Harris' facilities of the Equipment delivered hereunder (including applicable provisions of the Fair Labor Standards Act of 1938, as amended). The price and, if necessary, delivery of any Equipment will be equitably adjusted to compensate Harris for the cost of compliance with laws or regulations except as specified

above. (b.) This Agreement shall be interpreted and the legal relations between the parties determined in accordance with the laws of the Commonwealth of Virginia. Venue for any legal proceedings shall be in any state or federal court in the Commonwealth of Virginia. The invalidity, in whole or in part, of any provision of this Agreement shall not affect the validity or enforceability of any other provisions thereof. (c.) Harris shall not be responsible for delays or failures in performance under this Agreement that are due to causes beyond its reasonable control including, but not limited to, acts of God, war, acts of terrorism, fires, severe weather, floods, strikes, blackouts, – embargoes, emergency conditions incompatible with safety or good quality workmanship, any similar unforeseen event that renders performance commercially implausible, or work performed on Harris Equipment by third parties not authorized by Harris to perform such work. In the event such delays or failures interrupt Harris' Services to Customer, Harris shall promptly notify Customer of the circumstances and the anticipated delay. (d.) This Agreement cannot be amended, modified or any provisions waived orally. All amendments and modifications must be in writing and signed by both parties. All waivers must be provided in writing by the party waiving their rights under this Agreement. (e.) Harris may subcontract service work. Should any subcontractor fail to perform or their work otherwise proves unsatisfactory, Harris will arrange for continuing Services of the Equipment by qualified technicians for the duration of this Agreement. Harris shall be liable to Customer for any direct costs, including the cost of obtaining alternate Services if necessary, incurred by Customer for failure of any subcontractor to satisfactorily perform the work required by this Agreement. (f.) All notices ("Notice") under this Agreement shall be in writing and shall be deemed to have been duly given upon being delivered personally or upon receipt if mailed by certified mail, return receipt requested. Notices shall be sent to the representatives named in the Summary Page or any subsequent representative for which Notice was provided pursuant to this section. (g.) This Agreement may not be assigned without Notice of the other party, which consent shall not be unreasonably withheld. However, Harris may: (i) assign all of its rights, obligations and liabilities under this Agreement to any subsidiary; or (ii) assign its rights to monies due or payable under this Agreement; Harris shall provide Customer with Notice of any such assignment. Harris' assignment of monies due or payable under this Agreement will not relieve Harris of any obligations or responsibilities to Customer hereunder.

### 13. ENTIRE AGREEMENT.

This Agreement is the complete agreement between the parties concerning the subject matter of this Agreement and replaces any prior implied, oral, or written



## **MASTER SERVICES AGREEMENT TERMS AND CONDITIONS**

communications between the parties, except as agreed between the parties in this Agreement. There are no conditions, understandings, agreements,

representations, or warranties expressed or implied, that are not specified herein.

## DEFINITIONS

**AGREEMENT.** Means the Agreement Terms and Conditions, Summary Page, Definitions, Statement of Work(s), Equipment List, and any other attachments, all of which are incorporated herein by reference.

**BUSINESS HOURS.** Business Hours are defined as 8:00 a.m. to 5:00 p.m., Monday through Friday excluding, national, state, and local holidays. Work performed outside of Business Hours is defined as Demand Services or Other Services, as applicable.

**COMMENCEMENT DATE.** Means the date on which the term of the Agreement begins and Services commence.

**CUSTOMER.** Means the end-user entity, named in the Summary Page, purchasing Services for its own internal use under this Agreement.

**DEMAND SERVICES.** Means service requests beyond the scope of and not defined in this Agreement. Demand Services may be performed at Harris' rates plus any other applicable expenses, fees, and escalations, as determined by Harris. The installation, removal, reinstallation, and/or replacement of equipment not associated with the Services as defined in this Agreement shall be considered Demand Services or Other Services, as applicable. Harris has the right to reasonably refuse to provide Demand Services or Other Services. Demand Services may include work performed outside of Business Hours and Other Services, as applicable. Demand Services may be escalated yearly.

**DESIGNATED SYSTEM(S).** Means the Harris system(s) purchased by Customer and identified in Equipment List for the SoftwareFX SOW. The Designated System does not include Third Party Software products, excluded products or other systems to which the Designated System may be linked.

**DIAGNOSTIC FEE.** Means the fee that is charged if Customer disapproves charges to repair and/or replace Equipment upon Harris' determination for repair or replacement of Equipment, as per applicable SOW. Harris will charge Customer a Diagnostic Fee based on the repair facility used and return the unrepaired Equipment to Customer.

**EMERGENCY CALLS.** Means calls received by Harris from Customer for Priority Technical Assistance Center (TAC) support because of the Designated System being partially or completely off the air.

**EQUIPMENT.** Means the products and related systems, as identified in the Equipment List for which Services are to be provided under this Agreement, as set forth in the applicable SOW.

**EQUIPMENT LIST.** Means the specific, serialized list of Equipment for Services to be provided under this Agreement as set forth in the applicable SOW.

**INFRASTRUCTURE.** Means the i) Radio Frequency (RF) site (consisting of only a duplexer, combiner, multicoupler, channels, Internet Protocol (IP) channel routers with interface cards, network sentry, Unified Audio Card (UAC), and Mini-Mobility Exchange (MME); ii) the dispatch site (consisting of only IP consoles, IP console switches, IP console routers, IP console internal interface cards, and IP console power supplies; or iii) an Network Switching Center (NSC) site (consisting of only the NSC IP server, storage array, IP router, backup device, firewall, fault management data collection device, and network management pc interface). Infrastructure and respective quantities are specifically itemized in the Equipment List.

**NON HARRIS INFRASTRUCTURE.** Means the Equipment not part of Infrastructure or Subscribers. Non Harris Infrastructure may comprise of the following: microwave or data transport system components (such as microwave, fiber, multiplexors, and routers), logging recorder timing receiving or generation systems, towers, tower top amplifiers, shelters, fences, landscaping, dehydrators, fuel tanks, alternating or direct current power systems (uninterruptible power supply (UPS), monitors, inverters, converters, generators, or feeds), heating ventilation air conditioning (HVAC), fire suppression, and/or other environmental monitoring or affecting systems. Non Harris Infrastructure and respective quantities are specifically itemized in the Equipment List.

**NON-HARRIS SOFTWARE.** Means software whose copyright is owned by a party other than Harris or its affiliated companies, including but not limited to the applications, anti-virus updates, operating system patches, and signature files.

**OTHER SERVICES.** Means Demand Services as requested by Customer that entail subcontractors, Third Parties, or non-Harris services on a time and material basis plus 35%. Harris has the right to reasonably refuse to provide Other Services. Other Services may include work performed outside of Business Hours and Demand Services, as applicable.

**PREVENTIVE MAINTENANCE.** Means tests, checks, and alignment on Customer's Equipment to ensure that the Equipment meets the specifications of each Equipment's manual.

**RESPONSE TIMES.** Means the expected timeframe to respond to an unscheduled system problem or outage event as described in the applicable SOW. Response Times are based on the assumption that the site is accessible by normal transportation methods and vehicles. On-site Response Time requirements exclude site locations that require extensive drive time due to traffic conditions, obstructions, distances, or site locations where specialized vehicles are required.

**SECURITY UPDATES.** Means Software Updates, as stated in the SoftwareFX SOW to the Designated System, that mitigate, address and/or resolve product security vulnerabilities in system components offered by Harris, including but not limited to, operating system updates, antivirus signatures, and other security related Windows-based third party updates (Microsoft security patches, Red Hat Linux security patches, and vulnerability updates for third party products). Security Updates may include Non-Harris software patches and/or a work-around.

**SECURITY UPDATE MANAGEMENT SERVICE ("SUMS").** Means Harris' automated patch management system that provides periodic, security-related Software Updates as stated in the SoftwareFX SOW to the Designated System.

**SERVICES.** Means services to be provided by Harris, as identified and more specifically described in SOW's, to be performed on Equipment identified on the Equipment List, as applicable.

**SOFTWARE.** Means the proprietary computer software of Harris as owned exclusively by Harris or Harris' suppliers, as appropriate, and as further defined in and licensed to Customer pursuant to the terms of the Software License Agreement as stated in the SoftwareFX SOW.

**SOFTWARE UPDATES.** Means Harris provided Software Updates to either Harris Designated System components or Security Updates. Updates may contain modifications, enhancements, and/or corrections to existing features, as determined solely by Harris. Software Updates means commercially available

corrections, modifications, or minor enhancements to the licensed programs generally released and/or provided by Harris.

**SOFTWARE UPGRADES.** Means a major release that replaces the current version of software and provides new features and/or functionality.

**SPARE PART(S).** Means required additional Equipment to be purchased by Customer for use to complete repairs of Equipment.

**STATEMENT OF WORK ("SOW").** Means the attached document(s) describing the Services to be performed by Harris.

**SUBSCRIBERS.** Means mobile radios, portable radios, control stations, vehicle repeaters, modems, routers, Wi-Fi devices, tablets, or back up dispatch radios that consist of mobile or portable radios as their prime radio transmitter, as listed in the Equipment List.

**SUMMARY REPORT.** Means communication to indicate action taken in a report to be provided to Customer within the frequency and intervals, and as exemplified, under the applicable SOW for Services.

**TECH-LINK.** Means Harris' secure web portal containing on-line support tools offered to Customer as part of the applicable SOW. Access is restricted to authorized Customers via user ID and password login.

**THIRD PARTY (IES).** Means any entity other than Harris that provides products or services to Customer, whether managed by or processed through Harris.

**END USER LICENSE AGREEMENT  
FOR  
HARRIS BEON SOFTWARE APPLICATION**

**IMPORTANT - READ CAREFULLY:**

THIS HARRIS END-USER LICENSE AGREEMENT ("AGREEMENT") IS A LEGAL AGREEMENT BETWEEN YOU (EITHER AN INDIVIDUAL OR A GOVERNMENTAL OR CORPORATE ENTITY HEREINAFTER REFERRED TO AS "BUYER") AND HARRIS CORPORATION ("SELLER") FOR THE HARRIS SOFTWARE PRODUCTS IDENTIFIED BELOW (THE "LICENSED PROGRAMS"). BY DOWNLOADING, INSTALLING, COPYING, OR OTHERWISE USING THE LICENSED PROGRAMS OR BY CLICKING THE "ACCEPT" BUTTON AND AGREEING TO THESE TERMS AND CONDITIONS, YOU AS AN INDIVIDUAL AND, AS APPLICABLE, ON BEHALF OF THE BUYER ENTITY AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT AND THIS AGREEMENT SHALL BE EFFECTIVE AS OF THE DATE OF YOUR FIRST INSTALLATION, COPYING OR USE OF THE LICENSED PROGRAMS OR THE DATE OF THE "ACCEPT" CLICK THROUGH. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU SHOULD NOT CLICK THE "ACCEPT" BUTTON AND YOU ARE NOT AUTHORIZED TO DOWNLOAD, INSTALL OR USE THE LICENSED PROGRAMS AND YOU MUST IMMEDIATELY DELETE ANY LICENSED PROGRAMS THAT YOU MAY HAVE.

Buyer and Seller agree as follows:

**1. Definitions**

1.1 "Buyer" means:

1.1.1 If Buyer is an individual, that individual;

1.1.2 If Buyer is a government entity, all agencies, branches, departments and divisions that are legally part of that government entity; and

1.1.3 If Buyer is a corporation, the legal entity that is the named Buyer plus all other legal entities that are wholly owned by the named Buyer.

1.2 "Contract(s)" means the separate written contract(s) or agreement(s), if any, between Buyer and either Seller or another party authorized by Seller to provide the Licensed Programs to Buyer. Each Contract will include the required execution of this End User License Agreement by the Buyer and the Buyer users prior to the installation and use of the Licensed Programs.

1.3 "Device" means the products used by Buyer to run the Licensed Programs.

1.4 "Licensed Programs" means the object code version of the software programs including, without limitation, any scripts, interfaces, graphics, displays, text, images, artwork, drivers, photographs, animations, video, audio, music, text, applets, documentation, associated media and other components or content provided as well as any services provided by Seller with the software, if any, together with any

Modifications or Enhancements of the above items provided by Seller. This Agreement is limited to the object code programs only. No rights in or access to any source code or program listings are provided.

1.5 “Modifications and Enhancements” shall mean any updates, upgrades, patches, fixes, feature additions, modifications or enhancements of the Licensed Programs.

## **2. License Grant**

2.1 Subject to the terms and conditions contained in this Agreement and the performance by Buyer of its obligations hereunder, Seller hereby grants to Buyer, and Buyer hereby accepts from Seller, a personal, non-transferable, non-exclusive, limited license to use the Licensed Programs in accordance with any documentation that accompanies the Licensed Programs.

2.2 Any Modifications and Enhancements of the Licensed Programs that Seller chooses to make available to Buyer shall be subject to the terms and conditions of this Agreement as well as any additional terms and conditions that may apply to the Modifications and Enhancements. This Agreement does not entitle Buyer to receive any Modifications and Enhancements and any Modifications and Enhancements may be provided by Seller at its discretion.

## **3. Buyer Obligations**

3.1 Buyer hereby accepts the Licensed Programs “AS IS” and shall determine the applicability of the Licensed Programs for Buyer’s desired use on Buyer’s Devices. Except as expressly set forth in the Contract, all installation, training and maintenance is the sole responsibility of Buyer.

3.2 Nothing in this Agreement shall be construed as giving Buyer any right to sell, assign, lease, or in any other manner transfer or encumber Seller’s ownership of the Licensed Programs.

3.3. Buyer shall not duplicate the Licensed Programs, or any portion thereof, except Buyer may make archival copies of the Licensed Programs in accordance with Buyer’s documented standard computer software back-up procedures. The media containing such authorized copies shall have prominently placed thereon, without change or alteration, the same copyright notices and proprietary legends and markings that are on the delivered Licensed Programs media.

3.4 The techniques, algorithms, and processes contained in the Licensed Product constitute trade secrets of Seller. Buyer agrees to take all measures reasonable and necessary to protect the confidentiality of the Licensed Product and Seller’ rights therein. Except as expressly provided in the Contract between Seller and Buyer, Buyer may not rent, lease, network, display, or distribute the Licensed Programs to any third party without Seller’s prior written consent. Furthermore, Buyer may not reverse engineer, disassemble, decompile, modify, alter, translate, or adapt the Licensed Programs or create any derivative thereof. The obligations set forth in this Subsection shall survive termination or expiration of this Agreement

3.5 The Licensed Programs are licensed as a single product and neither the individual programs comprising the Licensed Programs nor any Modifications or Enhancements may be separated for use by more than one concurrent user.

3.6 The act of copying any portion of the Licensed Programs as authorized hereunder shall not cause, or be construed as causing, any portion thereof to be considered as being in the public domain or

generally available on a nonproprietary basis. All such copies shall be treated as confidential as required for original information under Section 3.3.

3.7 To the extent applicable, Buyer must comply with all applicable privacy, consumer data and protection laws and all laws that apply to collecting, accessing, storing, processing, using, disclosing and securing user data, including any obligations to notify and obtain consents of users regarding Buyer's access to users' personal information.

3.8 In addition to any license fees and other compensation paid for the use of the Licensed Programs, Buyer shall pay the gross amount of any present or future sales, use, excise, value-added, or other similar tax applicable to the price, sale or any Products or services furnished hereunder or to their use by Seller or Buyer, or Buyer shall otherwise furnish Seller with tax exemption certificates acceptable to all applicable taxing authorities.

#### **4. Ownership**

Buyer is given possession of a copy of the Licensed Programs but Seller shall at all times retain title or full ownership interest in such Licensed Programs and all Modifications and Enhancements thereof, regardless of the form or media in or on which the original and other copies thereof may subsequently exist. All rights, title and copyrights in and to the Licensed Programs (including, but not limited, to any images, photographs, animations, video, audio, music, text, and applets incorporated into the Licensed Programs), the accompanying printed materials, and any copies of the Licensed Programs are owned by Seller and/or its licensors. Nothing contained herein shall be deemed to convey any title or ownership interest in the Licensed Programs to Buyer.

#### **5. Warranty**

5.1 Provided: (a) that connectivity and interoperability of the Buyer's Device with the cellular commercial carrier network or other third party network being used by the Buyer is fully available and fully functioning; and (b) that the Licensed Programs are used on a Device designated by Seller as acceptable for Licensed Programs' use, and (c) correct input data is supplied to Buyer's Device, Seller warrants, for a period of ninety (90) days from the download of the Licensed Programs onto the Buyer's Device, that the Licensed Programs furnished to Buyer by Seller shall be capable of successfully operating on the Buyer's Device in accordance with the logic defined in the Licensed Programs' operator manuals or other official supporting documentation designated by Seller for the Licensed Programs. If, on the basis of evidence submitted to Seller within the 90 day term of this warranty, it is shown that any Licensed Program does not meet this warranty, Seller, at its option, will either: (i) correct the defect or error in the Licensed Program free of charge and provide a corrected Licensed Program, or (ii) make available to Buyer free of charge a satisfactory substitute Licensed Program.

5.2 Seller is unable to and cannot guarantee either the extent or consistency of the wireless coverage and communications of a cellular commercial carrier's network or other third party network nor can Seller guarantee the quality of the data service provided. Given the dependency on commercial cellular and third party networks, the use of the Licensed Programs, including location information, is not intended for mission critical communications but rather for administrative and other communications.

IN PARTICULAR, SINCE THE LICENSED PROGRAMS' PERFORMANCE, FEATURES AND FUNCTIONALITY MAY BE UNAVAILABLE, IMPRECISE OR INACCURATE DEPENDING ON SYSTEM, NETWORK, CAPACITY, ENVIRONMENTAL, TERRAIN, COMPATIBILITY, INTEROPERABILITY AND OTHER CONDITIONS, SELLER AND ITS THIRD PARTY SUPPLIERS AND SUBCONTRACTORS HEREBY DISCLAIM, EXCEPT FOR THE EXPRESS WARRANTY SET

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FORTH IN SECTION 5.1 ABOVE, ALL OTHER EXPRESS OR IMPLIED WARRANTIES AND CONDITIONS, WHETHER ORAL, EXPRESS, OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, ACCURACY, RELIABILITY, AND NO INFRINGEMENT, WHETHER SUCH WARRANTIES OR CONDITIONS MAY BE IMPLIED BY STATUTE, CUSTOM, COURSE OF DEALING BETWEEN THE PARTIES, TRADE USAGE OR COMMON LAW. FURTHERMORE, EXCEPT FOR THE EXPRESS WARRANTY SET FORTH IN SECTION 5.1 ABOVE, SELLER AND ITS THIRD PARTY SUPPLIERS AND SUBCONTRACTORS MAKE NO OTHER WARRANTY THAT THE LICENSED PROGRAMS OR THIRD PARTY CONTENT AND SERVICES PROVIDED AS PART OF THE LICENSED PROGRAMS (INCLUDING, WITHOUT LIMITATION, LOCATION DATA) WILL BE UNINTERRUPTED, ACCURATE, RELIABLE, TIMELY, SECURE, FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS OR ERROR-FREE.

5.3 THE WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION 5 CONSTITUTE THE ONLY WARRANTIES WITH RESPECT TO THE LICENSED PROGRAMS AND ANY MODIFICATIONS OR ENHANCEMENTS TO THE LICENSED PROGRAMS PROVIDED BY SELLER. THE WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION 5 CONSTITUTE THE BUYER'S EXCLUSIVE REMEDIES IN THE EVENT SUCH WARRANTIES ARE BREACHED. THEY ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, OR STATUTORY INCLUDING, WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL SELLER BE LIABLE FOR SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES.

## **6. HIGH RISK ACTIVITIES; LOCATION DATA**

6.1 THE LICENSED PROGRAMS ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED, MANUFACTURED OR INTENDED FOR ANY USE REQUIRING FAIL-SAFE, EMERGENCY OR MISSION CRITICAL PERFORMANCE IN WHICH THE FAILURE OF A LICENSED PROGRAM COULD LEAD TO DEATH, PERSONAL INJURY, PHYSICAL OR ENVIRONMENTAL DAMAGE. THIS USE RESTRICTION INCLUDES, WITHOUT LIMITATION, THE OPERATION OF AIRCRAFT AND THE DESIGN, CONSTRUCTION, OPERATION AND MAINTENANCE OF NUCLEAR FACILITIES.

6.2 ANY LOCATION DATA INCLUDED IN THE LICENSED PROGRAMS IS FOR BASIC INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED TO BE RELIED UPON IN SITUATIONS WHERE PRECISE LOCATION INFORMATION IS NEEDED OR WHERE ERRONEOUS, INACCURATE OR INCOMPLETE LOCATION DATA MAY LEAD TO DEATH, PERSONAL INJURY, PROPERTY OR ENVIRONMENTAL DAMAGE. NEITHER SELLER NOR ITS SUBCONTRACTORS AND SUPPLIERS CAN GUARANTEE THE AVAILABILITY, ACCURACY, COMPLETENESS AND RELIABILITY OF THE LOCATION DATA INCLUDED IN THE LICENSED PROGRAMS.

## **7. LIMITATION OF LIABILITY**

7.1 The total liability of Seller, including its third party subcontractors and suppliers, for all claims of any kind for any loss or damage, whether in contract, warranty, tort (including negligence or infringement), strict liability or otherwise, arising out of, connected with, or resulting from the performance or non-performance

of this Agreement or from the use of the Licensed Programs shall not exceed the total amount of license fees and other amounts paid by Buyer to Seller for the purchase and use of the Licensed Programs.

7.2 IN NO EVENT, WHETHER AS A RESULT OF BREACH OF AGREEMENT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR INFRINGEMENT), STRICT LIABILITY OR OTHERWISE, SHALL SELLER, OR ITS SUBCONTRACTORS OR SUPPLIERS, BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR EXEMPLARY DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES, LOSS OF USE OF A DEVICE OR ANY OTHER HARDWARE OR EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES, SERVICES OR DOWNTIME COSTS.

7.3 The provisions of this Section, LIMITATION OF LIABILITY, shall apply notwithstanding any other provisions of this Agreement or any other agreement and shall survive the expiration or termination of this Agreement.

## **8. Term and Termination.**

8.1 Except as expressly set forth in a Contract providing for a shorter term and unless earlier terminated as provided herein, the term of this Agreement shall be perpetual. If a shorter term is set forth in the Contract, the term of this Agreement shall be the shorter term set forth in the Contract.

8.2 This Agreement may be terminated at any time by written mutual agreement of the parties.

8.3 Seller reserves the right, in addition to any other remedies it may retain in this Agreement or may be entitled to in law or equity, to terminate this Agreement at any time prior to the expiration of any Term in the event:

8.3.1 Buyer breaches any material term or condition or fails to perform or observe any obligations or covenants of this Agreement or the Contract and such failure and/or breach is not remedied within thirty (30) days of written notice from Seller; or

8.3.2 Buyer petitions for reorganization, readjustment or rearrangement of its business affairs under any laws or governmental regulations relating to bankruptcy or insolvency, or is adjudicated bankrupt or if a receiver is appointed for Buyer, or if Buyer makes or attempts to make an assignment for the benefit of creditors, or is unable to meet its obligations in the normal course or business as they fall due.

8.4 In the event this Agreement expires or is revoked or terminated by Seller, it is agreed that (a) such termination or revocation shall not affect any provisions of the Agreement which by their nature are inherently intended to survive expiration or termination, and (b) Buyer shall be entitled to a reasonable period of time to wind down its use of the Licensed Programs in an orderly fashion, after which Buyer shall discontinue use of the Licensed Programs. To discontinue the use of the Licensed Programs, Buyer shall un-install and remove the Licensed Programs from the Buyer's Devices and delete all copies of the Licensed Programs in Buyer's possession.

## **9. U.S. Government Contracts**

9.1 Buyer agrees that it will not use the Licensed Programs in the performance of a contract, or subcontract, with the U.S. Government in a manner so as to affect Seller's rights to Licensed Programs. If Buyer desires to use the Licensed Programs in the performance of a contract, or subcontract, with the U.S.

Government, prior to such use Buyer shall consult with Seller as to the procedures and use of restrictive markings required to protect the ownership interest of Seller.

9.2 If the Buyer is an agency or department of the U.S. Government, then the following notice applies: The Licensed Programs is Commercial Computer Software as defined in 48 CFR 227.7201 through 227.7202-4 and in 48 CFR 2.101 and 12.212, as appropriate or any equivalent regulations of other governmental agencies, and the rights of the U.S. Government to utilize the Licensed Programs are those expressly set forth in this Agreement. The U.S. Government does not receive unlimited rights to the Licensed Programs. The contractor is Harris Corporation, acting by and through its RF Communications Division, 221 Jefferson Ridge Parkway, Lynchburg, Virginia 24501.

## **10. Export Control**

10.1 The export regulations of the United States prohibit, with certain exceptions, the export from the United States or the transfer to foreign persons (non-U.S. citizens or "green card" permanent residents), whether in the U.S. or abroad, of technical data relating to certain commodities unless the exporter has obtained written authorization from the U.S. Government and received written assurance from the foreign importer that the technical data will not be further exported without permission of the exporter and the cognizant U.S. Government agency. Buyer agrees to comply fully with all relevant regulations of the United States to assure that no violation of such regulations occurs.

10.2 Buyer further acknowledges that violations of these laws and regulations include, but are not limited to, exporting or re-exporting, or otherwise supplying or providing access to the Licensed Programs, the accompanying documentation or any other materials provided by Seller, to: (a) any country against which the United States imposes trade sanctions or export controls; (b) persons on the U.S. Commerce Department's Denied Parties List or Entity List, the U.S. Treasury Department's Specially Designated Nationals List, or the U.S. State Department's List of Debarred Parties; (c) end uses related to nuclear weapons, missile technology, or chemical/biological weapons; or (d) any destination for which an export license is required.

10.3 Buyer further acknowledges that the export of the Licensed Programs, documentation and any other materials provided by Seller may be controlled by the U.S. State Department's Office of Defense Trade Controls, through the Arms Export Control Act as implemented in the International Traffic in Arms Regulations, 22 C.F.R. §§ 120-130 ("ITAR"), the U.S. Commerce Department's Bureau of Industry and Security, through the Export Administration Act as implemented in the Export Administration Regulations, 15 C.F.R. §§ 730-774 ("EAR"), and/or the U.S. Treasury Department's Office of Foreign Assets Control, and depending on which agency has jurisdiction over these items different restrictions on export, re-export, and use activities will apply. Buyer agrees that it is Buyer's responsibility to determine which of these U.S. agencies has export control jurisdiction over the Licensed Programs, documentation, and any other materials provided by Seller, and Buyer acknowledges that export jurisdiction over these items may change from time to time.

10.4 Further, Buyer agrees that any violation by Buyer of any of these laws and regulations will also constitute material breach of this Agreement, and Buyer agrees to indemnify Seller against any criminal or civil monetary sanctions, costs, losses or expenses (including but not limited to reasonable attorneys' fees and costs) resulting from Buyer's failure to comply. Buyer agrees to defend, indemnify and hold Seller, and its officers, directors, agents and employees harmless against all criminal and/or civil monetary sanctions, costs, losses or expenses (including but not limited to reasonable attorneys' fees and costs) incurred as a result of any failure on Buyer's part to comply with these laws. Buyer further agrees

to notify Buyer's Buyers of, and to use best efforts to ensure their compliance with, the restrictions imposed by these laws and regulations.

## **11. Maintenance Support**

Seller may, from time to time, issue Modifications and Enhancements to the Licensed Programs. If Seller should issue a Modification or Enhancement to the Licensed Programs, Buyer may obtain such Modification or Enhancement at the current price then charged by Seller or the price set forth in the Contract, as applicable.

## **12. Intellectual Property Indemnification**

12.1 Seller agrees that it shall, at its own expense and at its option, defend or settle any claim, suit, or proceeding brought against Buyer, based on an allegation that the Licensed Program furnished under this Agreement constitutes a direct or a contributory infringement of any claim of any United States patent, mask work, copyright or any other intellectual property right. This obligation shall be effective only if Buyer shall have made all payments then due to Seller for the purchase and/or use of the Licensed Programs and if Seller is notified of said allegation promptly in writing and given authority, information, and assistance for the settlement or defense of said claim, suit, or proceeding. If, in any such suit arising from such claim, the continued use of the Licensed Programs for the purpose intended is enjoined by any court of competent jurisdiction, Seller shall, at its expense and option, either: (a) procure for Buyer the right to continue using the Licensed Programs, or (b) modify the Licensed Programs so that they become non-infringing, or (c) replace the Licensed Programs or portions thereof so that they become non-infringing, or (d) remove the Licensed Programs and refund the license fee paid by Buyer to purchase the Licensed Programs license (less reasonable depreciation for use). The foregoing states the entire liability of Seller for intellectual property infringement by the Licensed Programs and is subject to any limitation of total liability set forth in this Agreement.

12.2 The preceding subsection 12.1 shall not apply to the use of the Licensed Programs in conjunction with any other hardware or software not supplied by Seller to the extent that such conjoined use causes the alleged infringement. As to any portion of the Licensed Programs or use described in the preceding sentence, Seller assumes no liability whatsoever for intellectual property right infringement.

12.3 THE INTELLECTUAL PROPERTY INDEMNITY OBLIGATIONS RECITED ABOVE ARE IN LIEU OF ALL OTHER INTELLECTUAL PROPERTY INDEMNITIES WHATSOEVER, WHETHER ORAL, WRITTEN, EXPRESS, IMPLIED OR STATUTORY.

## **13. Third-Party Software Licenses – N/A**

## **14. Assignment/Transfer.**

This Agreement, the licenses granted hereunder and the Licensed Programs provided to Buyer under this Agreement may not be assigned, sub-licensed, or otherwise transferred by Buyer to any third party without Seller's express prior written consent. Subject to the foregoing, any assignee hereunder shall be subject to all of the terms, conditions and provisions of this Agreement. Any attempt by Buyer to assign, sub-license, or transfer the Licensed Programs, or any of the rights or duties contained in this Agreement, without Seller's prior written consent shall be void.

## **15. Severability.**

If any term or provision of the Agreement is determined by a court or government agency of competent jurisdiction to be invalid under any applicable statute or rule of law, such provision(s) are, to that extent, deemed omitted, but this Agreement and the remainder of its provision shall otherwise remain in full force and effect.

## **16. Waiver.**

No waiver will be implied from conduct or failure to enforce rights. No waiver will be effective unless in writing signed on behalf of the party against whom the waiver is asserted.

## **17. General**

17.1 This Agreement supersedes all prior agreements, proposals, representations, and communications between Seller and Buyer relating to the Licensed Programs. In the event of a conflict in the terms and provisions of this Agreement and the terms and provisions of a Contract, the terms and provisions of this Agreement shall govern.

17.2 The headings for each section are stated for convenience only and are not to be construed as limiting.

17.3 Under the terms of this Agreement, Buyer is a licensee of Seller. Buyer is not an employee, agent, partner, contractor or representative of Seller. The respective obligations and rights of Seller and Buyer are specifically limited by the terms of this Agreement. Buyer hereby specifically acknowledges that it does not have authority to incur any obligations or responsibilities on behalf of Seller.

17.4 Buyer acknowledges that any unauthorized use or disclosure of Licensed Programs will cause irreparable damage to Seller and that injunctive relief or other equitable remedies may be necessary to prevent or minimize such damage to Seller. Buyer agrees that it will not contest the applicability of

injunctive relief on any grounds other than no unauthorized use or disclosure of Licensed Programs has occurred. In addition, Seller shall not be required to provide a bond or other financial security to obtain injunctive relief.

17.5 Nothing in this Agreement shall limit Seller from using the Licensed Programs and/or licensing the Licensed Programs to other parties.

#### 17.6 Governing Law

17.6.1 It is expressly understood and agreed to by Seller and a Buyer located in the United States that in the event of any disagreement or controversy between the parties, the terms and conditions of this Agreement shall be governed by the laws of the state set forth in the Contract between Seller and Buyer without regard to that state's conflicts of laws principles. In the event that no such governing law state is established in the Contract between Seller and Buyer, then it is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, the terms and conditions of this Agreement shall be governed by the laws of the Commonwealth of Virginia without regard to its conflicts of laws principles.

17.6.2 If Buyer is located outside of the United States, then, without limiting either party's right to seek injunctive or other equitable relief in court, either party may elect (by written notice given prior to filing a complaint or, in the case of the defendant, prior to answering a complaint) to resolve a dispute by binding arbitration in the English language in London, Great Britain under the International Arbitration Rules of the International Centre for Dispute Resolution; the decision of the arbitrator will be enforceable in any court. The original of this Agreement has been written in the English language and that version will apply if there is any dispute.

17.6.3 Both Seller and Buyer agree to exclude application of the U.N. Convention of Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (UCITA) to this Agreement, if either were otherwise applicable.

# **ATTACHMENT C**

## **WARRANTY**

- A. Harris Corporation, a Delaware Corporation, through its Communication Systems Segment (hereinafter "Seller") warrants to the original purchaser for use (hereinafter "Buyer") that Equipment manufactured by or for the Seller shall be free from defects in material and workmanship, and shall conform to its published specifications. With respect to all non-Seller Equipment, Seller gives no warranty, and only the warranty, if any, given by the manufacturer shall apply. Rechargeable batteries are excluded from this warranty but are warranted under a separate Rechargeable Battery Warranty (ECR-7048).
- B. Seller's obligations set forth in Paragraph C below shall apply only to failures to meet the above warranties occurring within the following periods of time from date of sale to the Buyer and are conditioned on Buyer's giving written notice to Seller within thirty (30) days of such occurrence:
1. for fuses and non-rechargeable batteries, operable on arrival only.
  2. for service parts, ninety (90) days.
  3. for mobile and portable radios ("Subscriber Units"), twenty-four (24) months.
  4. for Unity® model Subscriber Units, thirty-six (36) months.
  5. for radio accessories, one (1) year.
  6. for all other equipment of Seller's manufacture, one (1) year.
- C. If any Equipment fails to meet the foregoing warranties, Seller shall correct the failure at its option (i) by repairing any defective or damaged part or parts thereof, (ii) by making available at Seller's factory any necessary repaired or replacement parts, or (iii) by replacing the failed Equipment with equivalent new or refurbished Equipment. Any repaired or replacement part furnished hereunder shall be warranted for the remainder of the warranty period of the Equipment in which it is installed. Where such failure cannot be corrected by Seller's reasonable efforts, the parties will negotiate an equitable adjustment in price. Labor to perform warranty service will be provided at no charge during the warranty period only for the Equipment covered under Paragraph B.3, B.4 and B.6. To be eligible for no-charge labor, service must be performed at Seller's factory, by an Authorized Service Center (ASC) or other Servicer approved for these purposes either at its place of business during normal business hours, for mobile or personal equipment, or at the Buyer's location, for fixed location equipment. Service on fixed location equipment more than thirty (30) miles (48 km) from the Service Center or other approved Servicer's place of business will include a charge for transportation.
- D. Seller's obligations under Paragraph C shall not apply to any Equipment, or part thereof, which (i) has been modified or otherwise altered other than pursuant to Seller's written instructions or written approval or, (ii) is normally consumed in operation or, (iii) has a normal life inherently shorter than the warranty periods specified in Paragraph B, or (iv) is not properly stored, installed, used, maintained or repaired, or, (v) has been subjected to any other kind of misuse or detrimental exposure, or has been involved in an accident.
- E. The preceding paragraphs set forth the exclusive remedies for claims based upon defects in or nonconformity of the Equipment, whether the claim is in contract, warranty, tort (including negligence), strict liability or otherwise, and however instituted. Upon the expiration of the warranty period, all such liability shall terminate. The foregoing warranties are exclusive and in lieu of all other warranties, whether oral, written, expressed, implied or statutory. NO IMPLIED OR STATUTORY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY. IN NO EVENT SHALL THE SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT OR EXEMPLARY DAMAGES.

This warranty applies only within the United States.

**Harris Corporation**  
Communication Systems Segment  
221 Jefferson Ridge Parkway  
Lynchburg, VA 24501  
1-800-368-3277

**Harris Corporation**  
Communication Systems Segment  
1680 University Avenue  
Rochester, NY 14610  
1-585-244-5830

ECR-7047W  
05/30/17

# ATTACHMENT D

## State of Indiana Request for Information 18-020

### Target Pricing

Pricing Structure	Contract Element	Harris Original Pricing	Target Pricing	Harris Updated Proposed Price				
		P25 Compliant Base Stations/Mobile/Portable/Repeaters/Vehicular Repeaters		P25 Compliant Base Stations/Consolettes	P25 Compliant Repeaters	P25 Compliant Mobile	P25 Compliant Portable	P25 Compliant Vehicular Repeaters
Minimum Discount Off Manufacturer List Price (%)	Minimum discount for radios/equipment	26.00%	BAFO	All proposed pricing will remain the same unless noted below.				
	Minimum discount for parts	26.00%	BAFO					
	Minimum discount for accessories	26.00%	BAFO					
Maximum Percentage (%) of Radio Equipment Model's Manufacturer List Price	One-year depot warranty	Included in equipment price.	BAFO					
	One-year on-site repair warranty	Included in equipment price.	BAFO					
	Two-year depot warranty	Included in equipment price. (3% for base stations, 4% for repeaters)	BAFO					
	Two-year on-site repair warranty	Included in equipment price. (18% for base stations, 16% for repeaters)	BAFO					
	Three-year depot warranty	6% for base stations, 4% for repeaters and mobile, 9% for portable, 11% for veh repeaters	BAFO					
	Three-year on-site repair warranty	18% (16% for repeaters, 11% for mobile)	BAFO					
All-Inclusive Hourly Rate (\$ per Hour)	User training at State premises (any location in Indiana)	\$625 (\$831.25 for repeaters)	\$60.80					
	User training at Respondent's location	Not Offered (\$76.67 for repeaters)	N/A					
	Online user training (hourly rate per State participant)	Not Offered (\$45 for mobile and portable)	N/A					
	Emergency maintenance or repair work performed on State premises (any location in Indiana)	\$168.75	\$91.23	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00
	Emergency maintenance or repair work performed at Respondent's location	\$168.75	\$91.23	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00
	Non-emergency maintenance or repair work performed on State premises (any location in Indiana)	\$112.50	\$80.75	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00
	Non-emergency maintenance or repair work performed at Respondent's location	\$112.50	\$80.75	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00
	Assembly/Installation work performed on State premises (any location in Indiana)	\$112.50	\$80.75	\$112.50	\$112.50	\$112.50	\$112.50	\$112.50
	Assembly/Installation work performed at Respondent's location	\$112.50	\$80.75	\$112.50	\$112.50	\$112.50	\$112.50	\$112.50



## **Attachment E**

### **Service Levels Agreements and Key Performance Metrics**

#### **Metric #1: Equipment Repair Turnaround Time**

- A. The Contractor shall test, repair equipment to meet original factory specifications, including providing hardware repair coverage for chemical, liquid, and other physical damage, and ship equipment back to the customer within five business days of receipt. The Contractor shall also upgrade all Firmware to the latest version when equipment is submitted for repair. The Contractor shall cover the cost of both outbound and inbound shipment if the customer uses the delivery service of the Contractor's choosing. The Contractor shall track the repair completion through either an online system or service management staff at the repair facilities.
- B. The Contractor shall monitor and report on a Quarterly basis the metric based on the calculation of delivery from the date of product receipt to the date of product shipment to the customer.
  - Performance Standard: By Five Business Days
- C. The Target: By Three Business Days

#### **Metric #2: Order Entry**

- A. The Contractor shall vet requested products, ensure pricing is correct, and enter customer orders into the Contractor's online system within 24 hours of receipt.
- B. The Contractor shall monitor and report on a Quarterly basis the metric based on the calculation of time from the receipt of an order to the entry of the order into the Contractor's online system.
  - Performance Standard: Less Than 24 Hours
- C. The Target: Less Than Two Hours

#### **Metric #3: Order Fulfillment (In-Stock Items)**

- A. The Contractor shall ship an in-stock order within three business days of order entry. The Contractor shall track order fulfillment in the Contractor's online system.
- B. The Contractor shall monitor and report on a Quarterly basis the metric based on the calculation of delivery from the date of order entry to the date of product shipment to the customer.
  - Performance Standard: By Three Business Days
- C. The Target: By Two Business Days

#### **Metric #4: Early Life Failure of Equipment**

- A. The Contractor shall commit to a less than two percent return of equipment due to failure during the standard warranty period.
- B. The Contractor shall monitor and report on a Quarterly basis the metric based on the calculation of units returned divided by units sold while under warranty.
  - Performance Standard: Less Than 2%
- C. The Target: Less Than 2%

**Metric #5: Equipment End-of-Life Notification**

- A. The Contractor shall notify, through email, customers 12 months before the equipment end-of-life (EOL).
- B. The Contractor shall monitor and report on a Quarterly basis the metric based on the calculation of notifications received by customers 12 months before EOL divided by all EOL notifications received by customers.
  - Performance Standard: 98%
- C. The Target: 100%

**Metric #6: Complaint Resolution**

- A. The Contractor shall respond to all complaints, including billing complaints, within 48 hours of complaint file. The Contractor shall pull the order in the online system, review the information in question, and take appropriate action (e.g., apply a credit to the customer's account).
- B. The Contractor shall monitor and report on a Quarterly basis the metric based on the calculation of time from the receipt of a complaint to the entry of a discrepancy resolution into the Contractor's online system.
  - Performance Standard: Less Than 48 Hours
- C. The Target: Less Than 24 Hours

**Metric #7: Sales Reporting**

- A. The Contractor shall prepare reports detailing the sales of subscriber equipment to all agencies and local government entities throughout the State during a 90-day period and submit these reports through email by 15 days following the close of the quarter.
- B. The Contractor shall monitor and report on a Quarterly basis the metric based on the calculation of time from the end of the quarter to the emailing of reports to all customer agencies and local government entities.
  - Performance Standard: By 15 Business Days After the Close of the Quarter
- C. The Target: By 10 Business Days After the Close of the Quarter

**Metric #8: Firmware Updates**

- A. The Contractor shall notify, through email, all agencies and local government entities throughout the State of any updates, technical reports, or related documents available for download from the Contractor's company website by 15 business days following public release.
- B. The Contractor shall monitor and report on a Quarterly basis the metric based on the calculation of time from a Firmware update being uploaded on the Contractor's website to the informational email being sent to all agencies and local government entities.
  - Performance Standard: By 15 Business Days After Public Release
- C. The Target: By 10 Business Days After Public Release

**Metric #9: Radio Equipment Enhancements/Product Announcements**

- A. The Contractor shall notify, through email, all agencies and local government entities throughout the State of any radio equipment enhancements or product announcements by 15 business days following public release.
- B. The Contractor shall monitor and report on a Quarterly basis the metric based on the calculation of time from a product enhancement or announcement being publicly released to the informational email being sent to all agencies and local government entities.
  - Performance Standard: By 15 Business Days After Public Release
- C. The Target: By 10 Business Days After Public Release

## **ATTACHMENT F**

### **RECHARGEABLE BATTERY WARRANTY**

- A. Harris Corporation, a Delaware Corporation, through its RF Communications Division (hereinafter "Seller") warrants to the original purchaser for use (hereinafter "Buyer") that nickel-cadmium, nickel-metal hydride, lithium-ion, and lithium-polymer batteries supplied by Seller shall be free from defects in material and workmanship, and shall conform to its published specifications for a period of twelve (12) months from the date of purchase.
- B. For purposes of this warranty, batteries shall be deemed defective if (1) the battery capacity is less than 80% rated capacity, or (2) the battery develops leakage.
- C. If any battery fails to meet the foregoing warranty, Seller shall correct the failure by issuing a replacement battery upon receipt of the defective battery at an Authorized Service Center (ASC) or Seller factory (for OpenSky<sup>®</sup> Equipment only).
- D. Replacement batteries shall be warranted only for the remaining unexpired warranty period of the original battery. This warranty becomes void if:
  - 1. The battery has been subjected to any kind of misuse, detrimental exposure, or has been involved in an accident.
  - 2. The battery is used in equipment or service other than the radio equipment for which it is specified.
- E. The preceding paragraphs set forth the exclusive remedies for claims based upon defects in or non-conformity of any battery, whether the claim is in contract, warranty, tort (including negligence), strict liability or otherwise, and however instituted. Upon the expiration of the warranty period, all such liability shall terminate. The foregoing warranties are exclusive and in lieu of all other warranties, whether oral, written, expressed, implied or statutory. NO IMPLIED OR STATUTORY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY. IN NO EVENT SHALL THE COMPANY BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT OR EXEMPLARY DAMAGES.

This warranty applies only within the United States.

To obtain the name and address of an Authorized Service Center (ASC), ask your salesperson, or call one of the factory number(s) printed at the bottom of this page.

**Harris Corporation**  
RF Communications Division  
221 Jefferson Ridge Parkway  
Lynchburg, VA 24501  
1-800-528-7711

**Harris Corporation**  
RF Communications Division  
1680 University Avenue  
Rochester, NY 14610  
1-585-244-5830

ECR-7048D

Electronic Approval History

	User ID	Approver Name	Datetime	Description
1	M292915	Kent,Matthew	10/22/2018 8:49:18AM	Agency Fiscal Approval
2	S003602	Jones,Sandy	10/22/2018 8:55:51AM	IOT Approval
3	T278748	Glickman,Tammera	11/05/2018 11:55:24AM	IDOA Legal Approval
4	M338303	Wolf,Matthew	11/13/2018 10:43:43AM	SBA Approval
5	O277119	Egunyomi,Olusola	11/18/2018 4:47:46PM	SBA Approval
6	M338811	Skarbeck,Molly H	11/19/2018 9:38:48AM	Attorney General Approval
7	S210690	Gard,Susan W	11/19/2018 3:10:00PM	Attorney General Approval