



CONTRACT NUMBER MA-057-20011572
BETWEEN
COUNTY OF ORANGE
AND
MOTOROLA SOLUTIONS, INC.
FOR
COMMUNICATIONS EQUIPMENT AND SERVICES

This Contract Number MA-057-20011572 (hereinafter referred to as “Contract”) is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California acting through the Orange County Probation Department (hereinafter referred to as “County”) with a place of business at 1055 N. Main St. 5th Floor, Santa Ana, CA 92701 and Motorola Solutions, Inc. with a place of business at 10680 Treena St., Suite 200, San Diego, CA 92131 (hereinafter referred to as “Contractor”). County and Contractor may be individually referred to as “Party”, or collectively as “Parties”.

ATTACHMENTS

This Contract is comprised of this document and the following Attachments, which are incorporated by reference into this Contract as if fully set forth:

Attachment A – Scope of Work
Attachment B – Compensation & Pricing
Attachment C- Motorola’s Software License Agreement

RECITALS

WHEREAS, County desires to enter into a Contract for Communications Equipment and Services; and,

WHEREAS, Contractor agrees to provide equipment as provided herein; and

NOW, THEREFORE, the Parties mutually agree as follows:

DEFINITIONS

“**Acceptance Tests**” means those tests described in the Acceptance Test Plan.

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

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

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

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

enough specificity for identification purpose and must be labeled or marked as confidential or its equivalent.

“Contract Price” means the price for the System and implementation Services, excluding applicable sales or similar taxes and freight charges. Further, unless otherwise stated in Exhibit B, “Payment Schedule” or the pricing pages of the proposal, recurring fees for maintenance, SUA, or subscription services are not included in the Contract Price.

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

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

“Effective Date” means that date upon which the last Party executes this Agreement.

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

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

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

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

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

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

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

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

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

“Software License Agreement” means the Motorola Software License Agreement (Attachment C)

“Software” (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does

not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

“Software Support Policy” (“SwSP”) means the policy set forth at <http://www.motorolasolutions.com/softwarepolicy> describing the specific technical support that will be provided to Customers under the Warranty Period and during any paid maintenance support period for Motorola Software. This policy may be modified from time to time at Motorola’s discretion.

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

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

“Specifications” means the functionality and performance requirements that are described in the Technical and Implementation Documents.

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

“Subsystem” means a major part of the System that performs specific functions or operations. Subsystems are described in the Technical and Implementation Documents.

“System” means the Equipment, including incidental hardware and materials, Software, and design, installation and implementation services that are combined together into an integrated system; the System(s) is (are) described in the Technical and Implementation Documents.

“System Acceptance” means the Acceptance Tests have been successfully completed.

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

“Warranty Period” for System Hardware, Software, or services related to system implementation means one (1) year from the date of System Acceptance or Beneficial Use, whichever occurs first. Unless otherwise stated in the applicable Addendum, Warranty Period for other Services means ninety (90) days from performance of the Service.

ARTICLES

County General Terms and Conditions:

- A. Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another County.
- B. Entire Contract:** This Contract, when accepted by the Contractor in writing, contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County’s Purchasing Agent or his designee, hereinafter “Purchasing Agent.”

- C. Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
- E. Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.
- F. Acceptance/Payment:** Unless otherwise agreed to in writing by County: 1) acceptance shall not be deemed complete unless in writing and until all the goods/Services have actually been received, inspected, and tested to the satisfaction of County, and 2) **initial payment of 25% shall be made upon execution of the contract** with remaining payments paid in accordance with Attachment B, Compensation and Pricing. If this Contract is terminated for any reason, Contractor shall immediately pay the County one-twelfth (1/12) of the Fee or portion therefore remaining in the Contract term.
- G. Warranty:** Unless otherwise addressed in a Scope of Work, the representations and warranties for goods and services provided pursuant to this Contract are as follows:
- SYSTEM FUNCTIONALITY.** Contractor represents that the System will perform in accordance with the Specifications in all material respects. Upon System Acceptance or Beneficial Use, whichever occurs first, this System functionality representation is fulfilled. Contractor is not responsible for System performance deficiencies that are caused by ancillary equipment not furnished by Contractor which is attached to or used in connection with the System or for reasons or parties beyond Contractor's control, such as natural causes; the construction of a building that adversely affects the microwave path reliability or radio frequency (RF) coverage; the addition of frequencies at System sites that cause RF interference or intermodulation; or County changes to load usage or configuration outside the Specifications.
- EQUIPMENT WARRANTY.** During the Warranty Period, Contractor warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship. If System Acceptance is delayed beyond six (6) months after shipment of the Equipment by events or causes beyond Contractor's control, this warranty expires eighteen (18) months after the shipment of the Equipment.
- SOFTWARE WARRANTY.** Except as described in the SwSP and unless otherwise stated in the Software License Agreement, during the Warranty Period, Contractor warrants the Software in accordance with the warranty terms set forth in the Software License Agreement and the provisions of this Section that are applicable to the Software. If System Acceptance is delayed beyond six (6) months after shipment of the Contractor Software by events or causes beyond Contractor's control, this warranty expires eighteen (18) months after the shipment of the Contractor Software. Nothing in this Warranty provision is intended to conflict or modify the Software Support Policy. In the event of an ambiguity or conflict between the Software Warranty and Software Support Policy, the Software Support Policy governs.
- EXCLUSIONS TO EQUIPMENT AND SOFTWARE WARRANTIES.** These warranties do not apply to: (i) defects or damage resulting from: use of the Equipment or Software in other than its

normal, customary, and authorized manner; accident, liquids, neglect, or acts of God; testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Contractor; County's failure to comply with all applicable industry and OSHA standards; (ii) breakage of or damage to antennas unless caused directly by defects in material or workmanship; (iii) Equipment that has had the serial number removed or made illegible; (iv) batteries (because they carry their own separate limited warranty) or consumables; (v) freight costs to ship Equipment to the repair depot; (vi) scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment; and (vii) normal or customary wear and tear.

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

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

ORIGINAL END USER IS COVERED. These express limited warranties are extended by Contractor to the original user purchasing the System or Services for commercial, industrial, or governmental use only, and are not assignable or transferable.

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

H. Patent/Copyright Materials/Proprietary Infringement: Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract.

Motorola will defend at its expense any suit brought against Customer to the extent it is based on an Infringement Claim, and Motorola will indemnify and hold harmless Customer for those costs and damages finally awarded against Customer for an Infringement Claim. Motorola's duties to defend, indemnify and hold harmless are conditioned upon: Customer promptly notifying Motorola in writing of the Infringement Claim; Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Customer providing to Motorola cooperation and, if requested by Motorola, reasonable assistance in the defense of the Infringement Claim. If

an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense procure for Customer the right to continue using the Equipment or Motorola Software, replace or modify it so that it becomes non-infringing while providing functionally equivalent performance, or grant Customer a credit for the Equipment or Motorola Software as depreciated and accept its return. The depreciation amount will be calculated based upon generally accepted accounting standards for such Equipment and Motorola Software.

Motorola will have no duty to defend, indemnify or hold harmless for any Infringement Claim that is based upon the combination of the Equipment or Motorola Software with any software, apparatus or device not furnished by Motorola; the use of ancillary equipment or software not furnished by Motorola and that is attached to or used in connection with the Equipment or Motorola Software; any Equipment that is not Motorola's design or formula; a modification of the Motorola Software by a party other than Motorola; or the failure by Customer to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. The foregoing states the entire liability of Motorola with respect to infringement of patents and copyrights by the Equipment, Motorola Software, or any of their parts.

- I. Assignment:** Except as provided in the Software License Agreement, Attachment C hereto, at provision 13.4, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Notwithstanding the foregoing, Contractor may assign this Contract except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld or delayed. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola is involved in a major corporate restructuring (such as a sale, acquisition, establishment of a joint venture, spin-off or otherwise (each a "Separation Event")), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement as part of or following the Separation Event. Motorola shall provide Customer reasonable written notice of a Separation Event.
- J. Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of Section 1720 et seq. of the California Labor Code.
- K. Termination:** In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause or after thirty (30) days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligations.
- L. Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor, its employees nor anyone working under Contractor shall be considered an agent or an

employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.

- N. Performance Warranty:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; unless otherwise set forth in the applicable Scope of Work, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by sub-contractors.
- O. Insurance Provision: Insurance Provision:** During the term of this Agreement, Motorola will obtain and maintain at its expense all insurance as required below and will provide to the County a Certificate of Insurance and all required endorsements that are necessary to indicate compliance with these insurance provisions. In addition, all subcontractors performing work on behalf of Motorola pursuant to this Agreement shall obtain and maintain similar insurance as determined by the Motorola Insurance Department, excluding Professional Liability which does not apply to subcontractors. Motorola is responsible for all self-insured retentions (SIRs) and deductibles under Motorola's insurance policies. Motorola declares that its deductibles are in an amount in excess of \$25,000. If Motorola fails to maintain insurance acceptable to the County as described herein during the term of this Agreement, the County may terminate this Agreement as provided above in Section K.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

Coverage	Minimum Limits
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 combined single limit per occurrence
Workers' Compensation	Statutory
Employers Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claims made \$1,000,000 aggregate

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***County of Orange its elected and appointed officials, officers, agents and employees*** as Additional Insureds, or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT.***
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the ***County of Orange, its elected and appointed officials, officers, agents and employees*** or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT.***

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment unless the loss arises from or results from the negligence of the County of Orange, its elected and appointed officials, officers, agents or employees.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

The Commercial General Liability policy shall contain a severability of interest clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 Policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

- P. Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
- Q. Change of Ownership/Name, Litigation Status, Conflicts with County Interests:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of Services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and Services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

- R. Force Majeure:** Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure. A Party that becomes aware of a Force Majeure that will significantly delay performance will notify the other Party promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, the Parties will execute a change order to extend the Performance Schedule or applicable Addenda for a time period that is reasonable under the circumstances.
- S. Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
- T. Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges

that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph “Z” below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs, and expenses arising from or related to a violation of such laws.

- U. Freight (F.O.B. Destination), Title and Risk of Loss:** Freight, Title and Risk of Loss. All freight charges will be pre-paid by Motorola and added to the invoices. Title and risk of loss to the Equipment will pass to Customer upon delivery to Customer, except that title to Software will not pass to Customer at any time but is licensed. Motorola will pack and ship all Products in accordance with good commercial practices.
- V. Severability:** If any term, covenant, condition, or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- W. Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney’s fees, costs and expenses.
- X. Interpretation:** This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the parties and this Contract.
- Y. Employee Eligibility Verification:** The Contractor warrants that it fully complies with all applicable Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees, consultants and subcontractors performing work hereunder, all verification and other documentation of employment eligibility status required by applicable Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employee, consultants and subcontractors for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, which approval shall not be unreasonably withheld, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- Z. Indemnification Provisions:** Motorola agrees to indemnify, defend, protect, investigate any claims, and to hold harmless the County and third parties named in Exhibit C, their officers, elected officials, employees and agents from and against any and all claims, demands or liability established resulting from damages or injuries to persons or property which arise from or are related to negligent errors, acts or omissions of Motorola and its agents under this Agreement; Motorola shall not however indemnify, defend, protect and hold harmless the County or third parties named in Exhibit C from claims, demands, or liability arising from the negligence as it relates to the errors, acts or omissions of the County or the third parties named in Exhibit C. Motorola’s obligations

under this provision shall not affect the right of the Customer to appear and to participate in legal actions against third parties bringing such suits. The Customer may take other action necessary to protect its interests. If Motorola's negligence combines with the negligence of the County or other third parties named in Exhibit C to cause injury, the Parties agree that liability will be apportioned as determined by a court of competent jurisdiction. Neither party shall request a jury apportionment.

AA. Audits/Inspections: Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

County reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this agreement shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's project manager.

Nothing contained herein shall be construed as granting County access to Contractor's confidential information.

BB. Contingency of Funds: Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty. Notwithstanding the foregoing, Contractor will be compensated for goods or services provided to the County prior to termination of this Contract.

CC. Expenditure Limit: The Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

Additional Terms and Conditions

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the County will procure goods/services from Contractor as further detailed in the Scope of Work, identified and incorporated herein by this reference as "Attachment A".
2. **Change Orders:** Either Party may request changes within the general scope of this Agreement. If a requested change causes an increase or decrease in the cost or time required to perform this Agreement, the Parties will agree to an equitable adjustment of the Contract Price or applicable

subscription fees, Performance Schedule, or both, and will reflect the adjustment in a change order or Addendum. Neither Party is obligated to perform requested changes unless both Parties execute a written change order.

3. **Term of Contract:** Unless terminated in accordance with other provisions of this Agreement or extended by mutual agreement of the Parties, the term of this Agreement begins upon execution of all necessary signatures and continues until the date of Final Project Acceptance or expiration of the Warranty Period, whichever occurs last. The term and the effective date of recurring Services will be set forth in the applicable addendum.
4. **Americans with Disabilities Act (ADA):** Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22: California Government Code, Sections 11135, et seq; and other federal and state laws and executive orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities.
5. **Adjustments – Scope of Work:** No adjustments made to the scope of work will be authorized without prior written approval of the County assigned Deputy Purchasing Agent.
6. **Authorization Warranty:** The Contractor represents and warrants that the person executing this Contract on behalf of and for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.
7. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
 - i. Afford the Contractor written notice of the breach and ten calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - ii. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
 - iii. Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
8. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
9. **Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.

- 10. Conflict of Interest – Contractor’s Personnel:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor’s employees and agents, associated with accomplishing work and services hereunder. The Contractor’s efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County.
- 11. Conflict of Interest – County Personnel:** The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
- 12. Conflict with Existing Law:** The Contractor and the County agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either Party having knowledge of such term or provisions shall promptly inform the other of the presumed non-applicability of such provision. Should the offending provision go to the heart of the Contract, the Contract shall be terminated in a manner commensurate with interests of both Parties to the maximum extent reasonable.
- 13. Consulting Contract – Follow-On Work:** No person or firm or subsidiary thereof who has been awarded a consulting services Contract or a Contract which includes a consulting component may be awarded a Contract for the provision of services, the delivery of goods or supplies, or the provision of any other related action which is required, suggested, or otherwise deemed appropriate as an end product of the consulting services Contract. Therefore, any consultant that Contracts with a County agency/department to develop a feasibility study.
- 14. Contingent Fees:** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees of the Contractor or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.
- For breach or violation of this warranty, the County shall have the right to terminate this Contract in accordance with the termination clause and at its sole discretion to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee from the Contractor.
- 15. Contractor’s Expense:** The Contractor will be responsible for all costs related to photo copying, telephone communications, electronic communication, fax communications, and parking while on County sites during the performance of work and services under this Contract. The County will not provide free parking for any service in the County Civic Center.
- 16. Contractor Personnel-Reference Check:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to accept the kind of responsibility anticipated under this Contract. Contractor's employees assigned to this project must meet character standards as demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.
- 17. Contractor's Project Manager and Key Personnel:** Contractor shall appoint a project manager to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This project manager shall be subject to approval by the County and shall not be changed without the written consent of the County's project manager, which consent shall not be unreasonably withheld.

18. The Contractor's project manager and key personnel shall be assigned to this project for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. Key personnel are those individuals who report directly to the Contractor's project manager.
19. **Contractor's Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be retained at a minimum of five (5) years from the termination of this Contract.
20. **Data – Title To:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.
21. **Debarment:** Contractor shall certify that neither Contractor nor its principles are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in the transaction by any Federal department or agency.
22. **Default:** If either Party fails to perform a material obligation under this Agreement, the other Party may consider the non-performing Party to be in default (unless a Force Majeure causes the failure) and may assert a default claim by giving the non-performing Party a written and detailed notice of default. Except for a default by Customer for failing to pay any amount when due under this Agreement which must be cured immediately, the defaulting Party will have thirty (30) days after receipt of the notice of default to either cure the default or, if the default is not curable within thirty (30) days, provide a written cure plan. The defaulting Party will begin implementing the cure plan immediately after receipt of notice by the other Party that it approves the plan. If Customer is the defaulting Party, Motorola may stop work on the project until it approves the Customer's cure plan.
23. **Disputes – Contract:** The Parties will use the following procedure to address any dispute arising under this Agreement (a "Dispute").
- A. **Negotiation:** Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute"). The Parties will attempt to resolve the Dispute promptly through good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within ten (10) days from the Notice of Dispute, the Parties will proceed to mediation.
- B. **Mediation:** The Parties will choose an independent mediator within thirty (30) days of a notice to mediate from either Party ("Notice of Mediation"). Neither Party may unreasonably withhold consent to the selection of a mediator. If the Parties are unable to agree upon a mediator, either Party may request that American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute.
- C. **Litigation, Venue and Jurisdiction:** If a Dispute remains unresolved for sixty (60) days after receipt of the Notice of Mediation, either Party may then submit the Dispute to a court of competent jurisdiction in the state in which the System is installed. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts in such state over any claim or matter arising under or in connection with this Agreement.

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

24. **Drug-Free Workplace:** The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
2. Establish a drug-free awareness program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - A. The dangers of drug abuse in the workplace;
 - B. The organization's policy of maintaining a drug-free workplace;
 - C. Any available counseling, rehabilitation and employee assistance programs; and
 - D. Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(c) that every employee who works under this Contract:
 - A. Will receive a copy of the company's drug-free policy statement; and
 - B. Will agree to abide by the terms of the company's statement as a condition of employment under this Contract.
4. Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County Contracts if the County determines that any of the following has occurred:
5. The Contractor has made false certification, or
6. The Contractor violates the certification by failing to carry out the requirements as noted above.

25. **Emergency/Declared Disaster Requirements:** In the event of an emergency or if Orange County is declared a disaster area by the County, state or federal government, this Contract may be subjected to unusual usage. The Contractor shall service the County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by the Contractor shall apply to serving the County's needs regardless of the circumstances. If the Contractor is unable to supply the goods/services under the terms of the Contract, then the Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from the Contractor's supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned. All applicable invoices from the Contractor shall show both the emergency purchase order number and the Contract number.

- 26. Equal Employment Opportunity:** The Contractor shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.
- Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.
- Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.
- 27. Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as project manager and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by the Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction.
- 28. Gratuities:** The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
- 29. Lobbying:** On the best information and belief, Contractor certifies no federal appropriated funds have been paid or will be paid by, or on behalf of, Contractor to any person influencing or attempting to influence an officer or employee of Congress; or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative contract.

- 30. News/Information Release:** The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the County through the County's Project Manager.
- 31. No Third-Party Beneficiaries:** This Contract is an agreement by and between the Parties, and neither: (a) confers any rights upon any of the employees, agents, or contractors of either Party, or upon any other person or entity not a party hereto; or (b) precludes any actions or claims against, or rights of recovery from, any person or entity not a party hereto.
- 32. Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA), except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

Contractor: Motorola Solutions, Inc.
 Attn: Kim Caplan, Project Manager
 10680 Treena St., Suite 200,
 San Diego, CA 92131
 Email: kim.caplan@motorolasolutions.com

County: County of Orange
 Probation Department – Juvenile Hall
 Attn: Ruth Munoz, Project Manager
 333 The City Drive South
 Orange, CA, 92868
 Phone: 714-935-7445
 Email: ruth.munoz@prob.ocgov.com

cc: County of Orange
 Probation Department
 Attn: Crystal Milner, County DPA
 1055 N. Main Street 5th Floor
 Santa Ana, CA 92705
 Email: crystal.milner@prob.ocgov.com

- 33. Ownership of Documents:** The term "Documentary Deliverables" means any document that Motorola prepares specifically for County and not for more general purposes and promises to deliver to County under this Contract; the term does not include any intellectual property rights used to create the document. Upon delivery, County becomes the permanent owner of a Documentary Deliverable but Contractor may use the document in furtherance of its duties under this Contract.

Any information in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer in providing Services under this Agreement or Motorola data

viewed or accessed by Customer will remain Motorola's property and will be deemed Confidential Information. This Confidential Information will be promptly returned at Motorola's request.

- 34. Precedence:** The Contract documents consist of this Contract and its exhibits and attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the exhibits and attachments. Notwithstanding the foregoing and pursuant to provision 13.8 in attachment C, Software License Agreement, the Software License Agreement will take precedence over conflicting provisions in the main body of the Contract, only in regards to the software that is the subject of this Contract.
- 35. Price Increase/Decrease:** No price increases will be permitted during the first year of the Contract. All price decreases will automatically be extended to the County of Orange. The County requires bona fide proof of cost increases on Contracts prior to any price adjustment. A minimum of 30-days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. The County may enforce, adjust, negotiate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the contract. Adjustments increasing the Contractor's profit will not be allowed.
- 36. Project Manager, County:** The County shall appoint a project manager to act as liaison between the County and the Contractor during the term of this Contract. The County's project manager shall coordinate the activities of the County staff assigned to work with the Contractor.
- The County's project manager shall have the right to require the removal and replacement of the Contractor's project manager and key personnel. The County's project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within 14 calendar days after written notice by the County's project manager. The County's project manager shall review and approve the appointment of the replacement for the Contractor's project manager and key personnel. Said approval shall not be unreasonably withheld.
- 37. Promotional/Advertisement:** County owns all rights to the name, trademarks, logos and symbols of County. The use and/or reproduction of County's name, trademark, logo and/or symbols for any purpose, including commercial advertisement, promotional purposes, announcements, displays or press releases, without County's express prior written consent is expressly prohibited. No use or reproduction may state or imply that County endorses Contractor's services.
- 38. Publication:** No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic at work, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, a partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Contract. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by both Parties.
- 39. Reports/Meetings:** The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this contract. The County's project manager and the Contractor's project manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's project manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.

40. **Substitutions:** The Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior County written approval.
41. **Waivers - Contract:** The failure of the County in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option contained herein shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.
42. **Background Clearance:** At least thirty (30) days prior to the start of the Contract, or as soon as possible thereafter, Contractor shall email a list of current employees who will be assigned to perform services under this contract to: Prob-VendorBackgrounds@prob.ocgov.com and carbon copy to ProbPurch@prob.ocgov.com, so that Probation can conduct background investigations of those assigned employees as required by this Contract and the Paragraph on “Probation Background Investigation” below. While clearance may be denied for many reasons based on information obtained in a background investigation, an omission of false statement made by the employee, regardless of the nature of magnitude of the omission or false statement, may also be ground for denying clearance.

Within thirty (30) days of separation of any approved employee who leaves Contractor’s employment, Contractor shall notify Probation of such separation, by email to: Prob-VendorBackgrounds@prob.ocgov.com and carbon copy to Pro-Purch@prob.ocgov.com

Probation Background Investigation: Conduct a lawful background investigation on each Contractor’s current employees identified as assigned to perform services under this Contract and the Paragraph on “Background Clearance” above. The background investigation may include, but shall not be limited to, an interview, fingerprinting, completion of a personal history statement and pre-investigation questionnaire; verification of education and prior employment history’ and a criminal record check with the Department of a Justice. The Department of Justice will notify Probation of any subsequent arrest and /or conviction of any Contractor’s employees approved to perform services under this contract.

All Contractor Employees assigned under this Contract are required to receive prior background clearance from Probation before providing any services. A representative from Probation’s Background Unit will notify Contractor as to whether or not each employee has passed background. If an employee is denied clearance, neither County nor Probation will provide a reason for the denial to Contractor or to the employee.

43. **Additional Equipment or Software:** For three (3) years after the expiration date of the Agreement, Customer may order additional Equipment or Software, if it is then available. Each purchase order must refer to this Agreement, the expiration date of the Agreement, and must specify the pricing and delivery terms. The Parties agree that, notwithstanding expiration of the Agreement, the applicable provisions of this Agreement (except for pricing, delivery, passage of title and risk of loss to Equipment, warranty commencement, and payment terms) will govern the purchase and sale of the additional Equipment or Software. Additional or contrary terms in the purchase order will be inapplicable, unless signed by both parties. Title and risk of loss to additional Equipment will pass at shipment, warranty will commence upon delivery, and payment is due within thirty (30) days after the invoice date. Motorola will send Customer an invoice as the additional Equipment is shipped or Software is licensed. Alternatively, Customer may register with and place orders through Motorola Online (“MOL”), and this Agreement will be the “Underlying Agreement” for those MOL transactions rather than the MOL On-Line Terms and Conditions of Sale. MOL registration and other information may be found at <https://businessonline.motorolasolutions.com> and the MOL telephone number is (800) 814-0601.

44. **Motorola Software:** Any Motorola Software, including subsequent releases, is licensed to Customer solely in accordance with the Motorola Software License Agreement in Attachment C (“Software License Agreement”). Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.
45. **Non-Motorola Software:** Any Non-Motorola Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to Motorola the right to sublicense the Non-Motorola Software pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of Licensor’s rights and protections under the Software License Agreement. Motorola makes no representations or warranties of any kind regarding Non-Motorola Software. Non-Motorola Software may include Open Source Software.
46. **Substitutions:** At no additional cost to Customer, Motorola may substitute any Equipment, Software, or services to be provided by Motorola, if the substitute meets or exceeds the Specifications and is of equivalent or better quality to the Customer. Any substitution will be reflected in a change order.
47. **Maintenance, Support, and SUA Services:** During the Warranty Period, in addition to warranty services, Motorola will provide maintenance Services for the Equipment and support for the Motorola Software pursuant to the Statement of Work set forth in the Maintenance and Support Addendum. Support for the Motorola Software will be in accordance with Motorola's established Software Support Policy. Copies of the SwSP can be found at <http://www.motorolasolutions.com/softwarepolicy> and will be sent by mail, email or fax to Customer upon written request. Maintenance Services and support during the Warranty Period are included in the Contract Price. If Customer wishes to purchase 1) additional maintenance or software support services during the Warranty Period; or 2) continue or expand maintenance, software support, installation, and/or SUA services after the Warranty Period, Motorola will provide the description of and pricing for such services in a separate proposal document. Unless otherwise agreed by the Parties in writing, the terms and conditions in this Agreement applicable to the maintenance, support, installation, and/or SUA Services, will be included in the Maintenance and Support Addendum, SUA Addendum, the applicable Statements of Work, and the proposal. These collective terms will govern the provision of such Services.
- To obtain any such additional Services, Customer will issue a purchase order referring to this Agreement and the separate proposal document. Omission of reference to this Agreement in Customer’s purchase order will not affect the applicability of this Agreement. Motorola’s proposal may include a cover page entitled “Service Agreement” or “Installation Agreement”, as applicable, and other attachments. These cover pages and other attachments are incorporated into this Agreement by this reference.
48. **Professional and Subscription Services.** If Customer purchases professional or subscription Services as part of the Solution, additional or different terms specific to such Service will be included in the applicable Addendum and will apply to those Services. Customer may purchase additional professional or subscription services by issuing a purchase order referencing this Agreement and Motorola’s proposal for such additional services.
49. Any information in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer in providing Services under this Agreement or Motorola data viewed or accessed by Customer will remain Motorola’s property and will be deemed Confidential Information. This Confidential Information will be promptly returned at Motorola's request.
50. **Tools:** All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of providing Services under this Agreement will be and remain the

sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to such property, and return it to Motorola upon request. Such property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction. Upon termination of the Agreement for any reason, Customer shall return to Motorola all equipment delivered to Customer.

51. **Covenant Not To Employ:** During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering Services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.
52. **Customer Obligations:** If the applicable Statement of Work or Addendum contains assumptions that affect the Services or Deliverables, Customer will verify that they are accurate and complete. Any information that Customer provides to Motorola concerning the Services or Deliverables will be accurate and complete in all material respects. Customer will make timely decisions and obtain any required management approvals that are reasonably necessary for Motorola to perform the Services and its other duties under this Agreement. Unless the Statement of Work states the contrary, Motorola may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions and Customer-provided information, decisions and approvals described in this section.
53. **Assumptions:** If any assumptions or conditions contained in this Agreement, applicable Addenda or Statements of Work prove to be incorrect or if Customer's obligations are not performed, Motorola's ability to perform under this Agreement may be impacted and changes to the Contract Price, subscription fees, project schedule, Deliverables, or other changes may be necessary.
54. **Non-Preclusion:** If, as a result of the Services performed under this Agreement, Motorola recommends that Customer purchase products or other services, nothing in this Agreement precludes Motorola from participating in a future competitive bidding process or otherwise offering or selling the recommended products or other services to Customer. Customer represents that this paragraph does not violate its procurement or other laws, regulations, or policies.
55. **Proprietary Materials:** Customer acknowledges that Motorola may use and/or provide Customer with access to Proprietary Materials and Derivative Proprietary Materials. The Proprietary Materials and the Derivative Proprietary Materials are the sole and exclusive property of Motorola and Motorola retains all right, title and interest in and to the Proprietary Materials and Derivative Proprietary Materials.
56. **Additional Services:** Any services performed by Motorola outside the scope of this Agreement at the direction of Customer will be considered to be additional Services which are subject to additional charges. Any agreement to perform additional Services will be reflected in a written and executed change order, Addendum or amendment to this Agreement.
57. **Systems and Services:** Parties may use that Contract for purchase and sale transactions, including system and services. Also as indicated in that Section 3.1, a System transaction may include additional documents such as a system description, statement of work, equipment list, acceptance test plan, project schedule, payment milestone schedule, and supplemental term and conditions that apply to the system transaction but which do not generally modify this Contract. The supplemental term and conditions are set forth below and the other documents, as necessary, are set forth in the Motorola Proposal.

- 58. Sites:** The County will provide a designated project manager; all necessary construction and building permits, zoning variances, licenses, and any other approvals that are necessary to develop or use the sites and mounting locations; and access to the work sites or vehicles identified in the Statement of Work as reasonably requested by Contractor so that it may perform its duties in accordance with the Performance Schedule and Statement of Work. Further, the County will ensure that all work sites it provides will be safe, secure, and in compliance with all applicable industry and OSHA standards. To the extent applicable and unless the Statement of Work states to the contrary, the County will ensure that these work sites have adequate: physical space; air conditioning and other environmental conditions; adequate and appropriate electrical power outlets, distribution, equipment and connections; and adequate telephone or other communication lines (including modem access and adequate interfacing networking capabilities), all for the installation, use and maintenance of the System. Before installing the Equipment or Software at a work site, Motorola may inspect the work site and advise the County of any apparent deficiencies or non-conformities with the requirements of this Section. This Contract is predicated upon normal soil conditions as defined by the version of E.I.A. standard RS-222 in effect on the Effective Date. If a Party determines that the sites identified in the Statement of Work are no longer available or desired, or if subsurface, structural, adverse environmental or latent conditions at any site differ from those indicated in the Statement of Work, the Parties will promptly investigate the conditions and will select replacement sites or adjust the installation plans and specifications as necessary. If change in sites or adjustment to the installation plans and specifications causes a change in the cost or time to perform, the Parties will equitably amend the Contract Price, Performance Schedule, or both, by a change order.
- 59. Limitation of Liability:** Except for personal injury or death, Motorola's and Customer's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of the Equipment, Software, or services with respect to which losses or damages are claimed. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA AND CUSTOMER WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. On no instance shall the limitation of liability impair the County's ability to seek remedy for damages through the Contractor's insurance carrier for the primary limit and coverage up to \$5,000,000. This limitation of liability provision survives the expiration or termination of the Agreement.

SIGNATURE PAGE FOLLOWS

ATTACHMENT A SCOPE OF WORK

I. SYSTEM DESCRIPTION

A. Project Overview: Replacement of OC Probation Department's existing legacy dispatch operator positions with Motorola's ASTRO® 25 series MCC 7500 IP Dispatch Console. The new MCC 7500 Dispatch Consoles sub-system will connect to the Orange County ASTRO® 25 Master Site. The MCC 7500 Dispatch Console will provide the Probation Department with scalable, flexible system architecture, sophisticated network management and security, and an easy migration to future capabilities. The system description section of the proposal expands on the operation, specifications, and equipment of each component of the proposed solution

1. Two (2) dispatch positions to interface with the existing Orange County ASTRO® 25 system. All of the dispatch positions will be located at the Probation Department's dispatch center.

2. Included components:

a) Licenses:

- (2) MCC 7500 basic console functionality software licenses
- (2) MCC 7500 advanced conventional licenses
- (2) MCC 7500 trunking licenses
- (2) MCC 7500 Over the Ethernet Keying (OTEK) licenses
- (1) UNC device licenses (in pack of 10s)

b) Probation Department MCC 7500-based dispatch site:

- (2) MCC 7500 Operator PCs
- (2) 22" Non-Touch Monitors
- (2) MCC 7500 Voice Processor Modules (VPM)
- (4) Headset Jacks
- (4) Wired Headsets
- (8) Desktop Speakers
- (2) Gooseneck Microphones
- (2) Footswitches
- (2) Dual IRR with license, sound card and speaker
- (2) Motorola Gateways
- (2) Site Ethernet LAN Switches
- (1) MKM 7000 Console Alias Manager
- (1) GCP 8000 Conventional Site Controller
- (2) Enhanced Conventional Channel Gateways (CCGW)
- (1) 7.5 ft Rack
- (2) Juniper Routers

c) Spares:

- (1) MCC 7500 Operator PC
- (1) MCC 7500 Voice Processor Module (VPM)
- (1) Headset Jack
- (2) Desktop Speakers
- (1) Gooseneck Microphone
- (1) Footswitch
- (1) Motorola Gateway
- (1) Site Ethernet LAN Switch
- (1) FRU: GCP 8000 Conventional Site Controller

- (1) FRU: GCP 8000 Conventional Site Controller Fan Module
- (1) FRU: GCP 8000 Conventional Site Controller Power Supply

B. Acceptance: System Acceptance will occur when the Acceptance Tests have been successfully completed. "Acceptance Tests" means those tests described in Attachment C-Acceptance Test Plan. Contractor will provide to County at least ten (10) days' notice before the Acceptance Tests commence. System testing will occur only in accordance with the Acceptance Test Plan. Upon System Acceptance, the Parties will memorialize this event by promptly executing a System Acceptance Certificate. If the Acceptance Test Plan includes separate tests for individual Subsystems or phases of the System, acceptance of the individual Subsystem or phase will occur upon the successful completion of the Acceptance Tests for the Subsystem or phase, and the Parties will promptly execute an acceptance certificate for the Subsystem or phase. If the County believes the System has failed the completed Acceptance Tests, County will provide to Contractor a written notice that includes the specific details of the failure. If the County does not provide to Contractor a failure notice within thirty (30) days after completion of the Acceptance Tests, System Acceptance will be deemed to have occurred as of the completion of the Acceptance Tests. Minor omissions or variances in the System that do not materially impair the operation of the System will not postpone System Acceptance or Subsystem Acceptance, but will be corrected according to a mutually agreed punch list schedule.

System Acceptance of the proposed solution will occur upon successful completion of a Functional Acceptance Test Plan (FATP), which will test the features, functions, and failure modes for the installed new equipment in order to verify that the solution operates according to its design.

C. Beneficial Use: Contractor's ability to perform its implementation and testing responsibilities may be impeded if the County begins using the System before System Acceptance. Therefore, County will not commence Beneficial Use before System Acceptance without Contractor's prior written authorization, which will not be unreasonably withheld. The term "Beneficial Use" means when the County first uses the System or a Subsystem or phase for operational purposes (excluding training or testing). Contractor is not responsible for System performance deficiencies that occur during unauthorized Beneficial Use. Upon commencement of Beneficial Use, the County assumes responsibility for the use and operation of the System.

D. Final Project Acceptance: Final Project Acceptance will occur after System Acceptance when all deliverables and other work have been completed. When Final Project Acceptance occurs, the Parties will promptly memorialize this final event by means of a Final Project Acceptance Certificate.

E. System Representation and Warranties:

1. **Equipment Warranty:** For one (1) year from the date of delivery, Contractor warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship. Contractor shall repair or replace equipment or parts during the warranty period. All parts and labor shall be included by Contractor at no charge. If a piece of equipment fails or operates at less than the manufacturer's designed specifications three times for the same or similar reason, within its warranty period, Contractor will replace the piece of equipment at County's request and at Contractor's cost.
2. **Software Warranty:** For one (1) year from the date of delivery, Contractor warrants the Motorola Software in accordance with the terms of the Software License Agreement and the provisions of this Section that are applicable to the Motorola Software.

3. **Services Warranty:** For ninety (90) days from the date the services were performed, Contractor warrants that the services were performed in a good and workmanlike manner, consistent with industry practices.
4. **Exclusions to Equipment and Software Warranties:** These warranties do not apply to: (i) defects or damage resulting from use of the Equipment or Software in other than its normal, customary, and authorized manner; accident, liquids, neglect, or acts of God; testing, maintenance, disassembly, repair, installation, alternations, modification, or adjustment not provided or authorized in writing by Motorola; Customer's failure to comply with all applicable industry and OSHA standards; (ii) breakage of or damage of antennas unless caused directly by defects in material or workmanship; (iii) Equipment that has had the serial number removed or made illegible; (iv) batteries (because they carry their own separate limited warranty) or consumables; (v) freight costs to ship Equipment to the repair depot; (vi) scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment; and (vii) normal or customary wear and tear.
5. **Warranty Claims:** Contractor will, at no additional charge to County, repair the defective Equipment or Motorola Software, replace it with the same or equivalent product, or refund the price of the defective Equipment or Motorola Software upon verbal notification by County. Contractor will, at no additional charge to County, re-perform defectively performed services upon verbal notification by County. Such action will be the full extent of Contractor's liability hereunder. If this investigation indicates the warranty claim is not valid, then Contractor may invoice County for responding to the claim on a time and materials basis using Contractor's current labor rates. Repaired or replaced product is warranted for the balance of the original applicable Warranty Period. All replaced products or parts will become the property of Contractor.
6. **Parts Availability:** Contractor will use best commercially reasonable efforts to provide replacement parts for Motorola manufactured subscriber equipment for five (5) years and for Motorola manufactured fixed infrastructure equipment for seven (7) years from the date at which the product is no longer shipped. Motorola reserves the right to supply either assemblies or piece parts. Concerning non-Motorola manufactured Equipment; if Motorola receives written notice from a third party vendor that it intends to cancel any Equipment it provides, Contractor shall provide County written notice prior to the scheduled cancellation to provide County the opportunity to purchase replacement parts.
7. **Third Party Warranty:** Contractor will pass through to County on a non-exclusive basis any assignable third party warranties that exceed the Contractor warranty provided in this Agreement. Contractor will not assume any obligations concerning pass-through of third party warranties.
8. **Original End User is Covered:** These express limited warranties are extended by Contractor to the original user purchasing the Equipment or Motorola Software for

II. STATEMENT OF WORK

- A. **Overview:** The tasks described herein will be performed by Contractor, its subcontractors, and County to implement the solution described in the System Description. This Statement of Work (SOW) describes the actual work involved in installation; identifies the installation standards to be followed; and clarifies the responsibilities for both Parties during the project implementation. Specifically, this SOW provides:
 1. A summary of the phases and tasks to be completed within the project lifecycle.
 2. A list of the deliverables associated with the project.

3. A description of the responsibilities for both Parties.
 4. The qualifications and assumptions taken into consideration during the development of this project.
- B.** This SOW provides the most current understanding of the work required by both parties to ensure a successful project implementation. Contractor has identified the equipment locations to be used for the new system. Should any of the locations change, a revision to the SOW and associated pricing will be required via an Amendment to this Contract.
- C. Assumptions:** Contractor has based the system design on information provided by County and an analysis of their system requirements. Changes to the equipment or scope of the project after contract may require a change order through an Amendment to this contract.
1. All work is to be performed during normal work hours, Monday through Friday 8:00 A.M. to 5:00 P.M.
 2. All existing sites or equipment locations will have sufficient space available for the system described.
 3. This includes available space for proposed racks, cabinets, MCC 7500 dispatch positions, cables, and cable entry ports.
 4. All existing sites or equipment locations will have adequate electrical power and site grounding suitable to support the requirements of the system described.
 5. It is assumed that the County will provide AC and/or DC power distribution units. County is responsible to provide enough circuits to support both the existing Gold Elite consoles and the replacement MCC 7500 console during the transition process.
 6. County is responsible for providing open conduit space for Contractor to route and install CAT6, RF and grounding cables.
 7. Any site/location upgrades or modifications are the responsibility of the County.
 8. Where applicable, approved FCC licensing will be provided by County.
 9. Where applicable, approved local, State, or Federal permits may be required for the installation and operation of the proposed equipment, and these are the responsibility of the Probation Department.
 10. Where necessary, County will provide a dedicated delivery point such as a warehouse, for receipt, inventory, and storage of equipment prior to delivery to the site(s).
 11. County is responsible for transporting and disposal of existing third party console racks and equipment.

- D. Contractor will install and configure the proposed equipment. The following table describes the tasks involved with installation and configuration:

Tasks	Motorola	OC Probation Dept.
PROJECT INITIATION		
Contract Finalization and Team Creation		
Execute contract and distribute contract documents.	X	X
Assign a Project Manager as a single point of contact.	X	X
Assign resources.	X	X
Schedule project kickoff meeting.	X	X
Deliverable: Signed contract, defined project team, and scheduled project kickoff meeting.		
Project Administration		
Ensure that project team members attend all meetings relevant to their role on the project.	X	X
Record and distribute project status meeting minutes.	X	
Maintain responsibility for third-party services contracted by Motorola Solutions.	X	
Complete assigned project tasks according to the project schedule.	X	X
Submit project milestone completion documents.	X	
Upon completion of tasks, approve project milestone completion documents.		X
Tasks		
Conduct all project work Monday thru Friday, 8:00 a.m. to 5:00 p.m.).	X	
Deliverable: Completed and approved project milestones throughout the project.		
Project Kickoff		
Introduce team, review roles, and decision authority.	X	X
Present project scope and objectives.	X	
Review SOW responsibilities and project schedule.	X	X
Schedule Design Review.	X	X
Deliverable: Completed project kickoff and scheduled Design Review.		

Design Review		
Present the system design and operational requirements for the solution.	X	
Present installation plan.	X	
Present preliminary cutover plan and methods to document final cutover process.	X	
Review safety, security, and site access procedures.	X	
Review and update design documents, including System Description, Statement of Work, Project Schedule, and Acceptance Test Plan, based on Design Review agreements.	X	
Execute Change Order in accordance with all material changes to the Contract resulting from the Design Review.	X	
Deliverable: Finalized design documentation based upon "frozen" design, along with any relevant Change Order documentation.		
SITE PREPARATION AND DEVELOPMENT		
General Facility Improvements		
Provide adequate HVAC, grounding, lighting, cable routing, and surge protection based upon Motorola Solutions' Standards and Guidelines for Communication Sites (R56)		X
Ensure the resolution of environmental and hazardous material issues at each site including, but not limited to, asbestos, structural integrity (tower, rooftop, water tank, etc.), and other building risks.		X
Provide obstruction-free area for the cable run between the demarcation point and system equipment.		X
Provide structure penetrations (wall or roof) for transmission equipment (e.g. antennas, microwave radios, etc.).		X
Transport removed site equipment to a location designated by Customer and within Customer's jurisdiction.		X
Deliverable: Sites meet physical requirements for equipment installation.		
SYSTEM INSTALLATION		
Tasks	Motorola	OC Probation Dept.
Equipment Order and Manufacturing		
Create equipment order and reconcile to contract.	X	
Manufacture Motorola Solutions-provided equipment necessary for system based on equipment order.	X	
Deliverable: Equipment procured and ready for shipment.		

System Staging		
Ship all equipment needed for staging to staging facility.	X	
Provide information on existing system interfaces, room layouts, or other information necessary for the assembly to meet field conditions.		X
Set up and rack the solution equipment on a site-by-site basis, as it will be configured in the field at each of the sites.	X	
Cut and label the cables with to/from information to specify interconnection for field installation and future servicing needs.	X	
Complete the cabling/connecting of the subsystems to each other ("connectorization" of the subsystems).	X	
Assemble required subsystems to assure system functionality.	X	
Inventory the equipment with serial numbers and installation references.	X	
Deliverable: System staged and ready for shipment.		
Equipment Shipment and Storage		
Provide secure location for solution equipment.		X
Pack and ship solution equipment to the identified, or site locations.	X	
Receive solution equipment.		X
Inventory solution equipment.	X	
Deliverable: Solution equipment received and ready for installation		
General Installation		
Deliver solution equipment to installation location.	X	
Coordinate receipt of and inventory solution equipment with designated contact.	X	
Install all proposed fixed equipment as outlined in the System Description based upon the agreed-upon floor plans, connecting audio, control, and radio transmission cables to connect equipment to the power panels or receptacles, and audio/control line connection points. Installation performed in accordance with R56 standards and state/local codes.	X	
Provide system interconnections that are not specifically outlined in the system design, including dedicated phone circuits, microwave links, or other types of connectivity.		X

Tasks	Motorola	OC Probation Dept.
Install and terminate all network cables between site routers and network demarcation points, including microwave, leased lines, and Ethernet.	X	
Connect installed equipment to the provided ground system.	X	
Label equipment, racks, and cables.	X	
Perform preliminary audit of installed equipment to ensure compliance with requirements and R56 standards.	X	
Note any required changes to the installation for inclusion in the "as-built" system documentation.	X	
Remove, transport, and dispose of old equipment.	X	
Deliverable: Equipment installed.		

Console Installation and Configuration		
Identify circuits for connection to console and a demarcation point located within 25 feet of the console interface.		X
Connect console to circuit demarcation points.	X	
Install PC workstation w/ keyboard and mouse, and monitor.	X	
Install a Voice Processor Module (VPM) and purchased peripheral console equipment in accordance with R56 standards and state/local codes.	X	
Develop templates for console programming.		X
Perform console programming and configuration.	X	
Deliverable: Console equipment installation completed.		
SYSTEM OPTIMIZATION AND TESTING		
Solution Optimization		
Verify that all equipment is operating properly and that all electrical and signal levels are set accurately.	X	
Verify that all audio and data levels are at factory settings.	X	
Verify communication interfaces between devices for proper operation.	X	
Ensure that functionality meets manufacturers' specifications and complies with the final configuration established during design review or system staging.	X	
Deliverable: Completion of System Optimization.		
Functional Acceptance Testing		
Verify the operational functionality and features of the solution supplied by Motorola Solutions, as contracted.	X	
Witness the functional testing.		X
Document all issues that arise during the acceptance tests.	X	
Tasks	Motorola	OC Probation Dept.
If any major task for the system as contractually described fails during the Customer acceptance testing or beneficial use, repeat that particular task after Motorola Solutions determines that corrective action has been taken.	X	
Resolve any minor task failures before Final System Acceptance.	X	
Document the results of the acceptance tests and present for review.	X	
Review and approve final acceptance test results.		X
Document all issues that arise during the acceptance tests.	X	
Document the results of the acceptance tests and present to the Customer for review.	X	
Deliverable: Completion of functional testing and approval by Customer.		

PROJECT TRANSITION		
Cutover		
Finalize Cutover Plan.	X	X
Conduct cutover meeting with relevant personnel to address both how to mitigate technical and communication problem impacts to the users during cutover and during the general operation of the system.	X	
Notify the personnel affected by the cutover of the date and time planned for cutover.		X
Provide ongoing communication with users regarding the project and schedule.	X	X
Cut over users and ensure that user radios are operating on system.		X
Resolve punchlist items, documented during the Acceptance Testing phase, in order to meet all the criteria for final system acceptance.	X	
Assist Motorola Solutions with resolution of identified punchlist items by providing support, such as access to the sites, equipment and system, and approval of the resolved punchlist items.		X
Deliverable: Migration to new system completed, and punchlist items resolved.		
Transition to Warranty		
Review the items necessary for transitioning the project to warranty support and service.	X	
Motorola Solutions to provide services during year 1 warranty which align with the proposed services.	X	
Provide a Customer Support Plan detailing the warranty support associated with the contract equipment.	X	
Deliverable: Service information delivered and approved by Customer		
Finalize Documentation and System Acceptance		
Tasks	Motorola	OC Probation Dept.
Provide manufacturer's installation material, part list and other related material to Customer upon project completion.	X	
Provide an electronic as-built system manual on CD or other Customer preferred electronic media. The documentation will include the following: <ul style="list-style-type: none"> ▪ Site Block Diagrams. ▪ Site Floor Plans. ▪ Site Equipment Rack Configurations. ▪ Antenna Network Drawings for RF Sites (where applicable). ▪ ATP Test Checklists. ▪ Functional Acceptance Test Plan Test Sheets and Results. ▪ Equipment Inventory List. ▪ Console Programming Template (where applicable). ▪ Maintenance Manuals (where applicable). ▪ Technical Service Manuals (where applicable). Drawings will be delivered in Adobe PDF format.	X	
Receive and approve documentation.		X
Execute Final Project Acceptance.	X	X
Deliverable: All required documents are provided and approved. Final Project Acceptance.		

III. EQUIPMENT LIST

SUBSYSTEM	QTY	PART NUMBER	DESCRIPTION
SUB SYS	QTY	NOMENCLATURE	DESCRIPTION
Orange Co	1	SQM01SUM0273	MASTER SITE CONFIGURATION
Orange Co	1	CA01316AA	ADD: UNC ADDTL DEVICE LIC (QTY 10)
Orange Co	1	CA02629AC	ADD: EXPAND 7.17 M CORE
Orange Co	1	UA00156AA	ADD: MCC7500 CONSOLE LICENSES (QTY 5)
Orange Co	1	UA00152AA	ADD:500 RADIO USER LICENSES
OC Probation	1	B1905	MCC 7500 ASTRO 25 SOFTWARE
OC Probation	2	B1933	MOTOROLA VOICE PROCESSOR MODULE
OC Probation	2	CA01642AA	ADD: MCC 7500 BASIC CONSOLE FUNCTIONALITY SOFTWARE LICENSE
OC Probation	2	CA01644AA	ADD: MCC 7500 /MCC 7100 ADV CONVL OPERATION
OC Probation	2	CA01643AA	ADD: MCC 7500 / MCC 7100 TRUNKING OPERATION
OC Probation	2	CA01220AA	ADD: MCC 7500 / MCC 7100 OTEK OPERATION
OC Probation	2	CA00147AF	ADD: MCC 7500 SECURE OPERATION
OC Probation	2	CA00182AB	ADD: AES ALGORITHM
OC Probation	2	CA00140AA	ADD: AC LINE CORD, NORTH AMERICAN
OC Probation	2	DSTG221B	TECH GLOBAL EVOLUTION SERIES 22INCH NON TOUCH
OC Probation	2	TT3492	Z2 G4 MINI WORKSTATION NON RETURNAB
OC Probation	8	B1912	MCC SERIES DESKTOP SPEAKER
OC Probation	4	B1913	MCC SERIES HEADSET JACK
OC Probation	4	RLN6099A	HDST MODULE BASE W/PTT, 25 FT CBL
OC Probation	4	RMN5150A	OVER-THE-HEAD, MONAURAL, NOISE-CANCELING HEADSET
OC Probation	2	DDN2089	DUAL IRR SW USB HASP WITH LICENSE (V47)
OC Probation	2	DSICUSBAUDIO7D	STARTECH 7.1 USB AUDIO ADAPTER SOUND CARD
OC Probation	2	DDN9649	INSTANT RECALL RECORDER CABLE FOR MCC 7500
OC Probation	2	DSLOGITECHZ130	LOGITECH Z130 SPEAKERS
OC Probation	1	T7449	WINDOWS SUPPLEMENTAL TRANS CONFIG
OC Probation	2	T7885	MCAFFEE WINDOWS AV CLIENT
OC Probation	2	DSPWR100012	STANDARD IEC AC POWER CORD 12 FOOT
OC Probation	2	B1914	MCC SERIES DESKTOP GOOSENECK MICROPHONE
OC Probation	2	DSACM3151	TRANSMIT FOOT SWITCH 24 IN
OC Probation	2	DSST7300U3M	STARTECH 7 PORT USB 3.0 HUB

SUBSYSTEM	QTY	PART NUMBER	DESCRIPTION
OC Probation	2	DSF2B56AA	USB EXTERNAL DVD DRIVE
OC Probation	2	CLN1868	2930F 24-PORT SWITCH
OC Probation	2	CLN1866	FRU: 1M DAC CABLE
OC Probation	2	T8492	SITE AND HUB ROUTER AND FIREWALL- AC
OC Probation	2	CA03445AA	ADD: MISSION CRITICAL HARDENING
OC Probation	2	CA03448AA	ADD: STATEFUL FIREWALL
OC Probation	2	DSACX2100AC	ACX2100 UNIVERSAL ACCESS ROUTER AC VER DUAL PS 1RU
OC Probation	1	T7038	GCP 8000 SITE CONTROLLER
OC Probation	1	CA00717AA	ADD: ASTRO SYSTEM RELEASE 7.17
OC Probation	1	CA00303AA	ADD: QTY (1) SITE CONTROLLER
OC Probation	1	CA01136AA	MCC 7500 CONVEN SITE OPER
OC Probation	1	X153AW	ADD: RACK MOUNT HARDWARE
OC Probation	1	SQM01SUM0205	GGM 8000 GATEWAY
OC Probation	1	CA01616AA	ADD: AC POWER
OC Probation	1	CA02086AA	ADD: HIGH DENSITY ENH CONV GATEWAY
OC Probation	1	SQM01SUM0205	GGM 8000 GATEWAY
OC Probation	1	CA01616AA	ADD: AC POWER
OC Probation	1	CA02086AA	ADD: HIGH DENSITY ENH CONV GATEWAY
OC Probation	1	BVN1013	MKM 7000 Console Alias Manager Software
OC Probation	1	TT3492	Z2 G4 MINI WORKSTATION NON RETURNAB
OC Probation	1	T7885	MCAFFEE WINDOWS AV CLIENT
OC Probation	1	DSCL5808NCKIT	8 PORT LCD KVM 8 USB-PS 2 COMBO CABLES
OC Probation	1	T7449	WINDOWS SUPPLEMENTAL TRANS CONFIG
OC Probation	1	TRN7343	SEVEN AND A HALF FOOT RACK
OC Probation	4	DSRMP615A	SPD, TYPE 3, 120V RACK MOUNT, 15A PLUG-IN W/ (6) 15A NEMA 5-15 OUTLETS
OC Probation	2	DDN9748	19 INCH BLACK SHELF
OC Probation	1	CLN1868	2930F 24-PORT SWITCH
OC Probation	1	CLN1866	FRU: 1M DAC CABLE
OC Probation	1	T8492	SITE AND HUB ROUTER AND FIREWALL- AC
OC Probation	1	CA03445AA	ADD: MISSION CRITICAL HARDENING
OC Probation	1	CA03448AA	ADD: STATEFUL FIREWALL
OC Probation	2	B1912	MCC SERIES DESKTOP SPEAKER
OC Probation	1	B1913	MCC SERIES HEADSET JACK
OC Probation	1	B1914	MCC SERIES DESKTOP GOOSENECK MICROPHONE
OC Probation	1	DSACM3151	TRANSMIT FOOT SWITCH 24 IN
OC Probation	1	TT3492	Z2 G4 MINI WORKSTATION NON RETURNAB
OC Probation	1	DSPWR100012	STANDARD IEC AC POWER CORD 12 FOOT
OC Probation	1	B1934	MCC 7500 VOICE PROCESSOR MODULE FRU
OC Probation	1	CA00147AF	ADD: MCC 7500 SECURE OPERATION
OC Probation	1	CA00182AB	ADD: AES ALGORITHM
OC Probation	1	DLN6966	FRU: GCP 8000/GCM 8000/GPB 8000
OC Probation	1	DLN6898	FRU: FAN MODULE
OC Probation	1	DLN6805	FRU: ENERGY EFFICIENT POWER SUPPLY

ATTACHMENT B COMPENSATION AND PRICING

- I. COMPENSATION:** This is a fixed fee Contract between County and Contractor to perform the services as listed in Attachment A – Scope of Work.

Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder.

The County shall have no obligation to pay any sum in excess of the fixed fees specified herein unless authorized by amendment in accordance with Articles C and P of the County Contract Terms and Conditions.

- II. CONTRACT PRICE:** The Contract Price (exclusive of applicable sales or use taxes which will be added and paid by the County but exclusive of freight charge) for the System is \$402,127. Equipment total is comprised of the Equipment listed in SOW, Section III. “System Integration and Services” noted in the below pricing table means the Equipment, Software, incidental hardware, materials and services that are combined together into an integrated system and includes all tasks listed in Section III, Paragraph D of the SOW.

Description	Price (USD)
Equipment (List Price)	\$235,271
Equipment Discount (per Orange County Price Book Agreement # MA-060-10012594)	-\$28,473
Equipment Total	\$206,798
System Integration and Services	\$247,164
Equipment and Services Subtotal	\$453,962
Estimated Tax (based on 9.25% of equipment after discount)	\$19,129
System Total (with Tax)	\$473,091
Incentive (if purchased within 90 days from the date of this proposal)	-\$70,964
Grand Total	\$402,127
Pre-Tax Total	\$385,868

Full details of equipment list are listed in Section III, Equipment List of Attachment A.

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

- IV. INVOICING AND PAYMENT:** Contractor will submit invoices to County according to the Payment milestones listed below. County will make payments to Contractor within thirty (30) days after the date of each invoice. County will make payments when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution. Overdue invoices will bear simple interest at the maximum allowable rate. For reference, the Federal Tax Identification Number for Motorola is 36-1115800.
- V. PAYMENT TERMS AND MILESTONES: COUNTY AUTHORIZES PAYMENTS TO BE PAID IN ADVANCE AND OR IN ARREARS AS DESCRIBED BELOW.** Contractor will submit invoices to County according to the Payment milestones listed below. County will make payments to Contractor within thirty (30) days after the date of each invoice. County will make payments when due in the form of a check or EFT transaction. Except for a payment that is due on the Effective Date, County will make payments to Contractor within thirty (30) days after the date of each invoice.

Payment Milestone

1. **System Purchase (excluding Subscribers, if applicable)**
2. **25% of the Contract Price due upon contract execution (due upon effective date);**
3. **60% of the Contract Price due upon shipment of Equipment from Staging;**
4. **10% of the Contract Price due upon installation of Equipment; and**
5. **5% of the Contract Price due upon Final Project Acceptance.**

Contractor may make partial shipments of Equipment and will request payment upon shipment of such Equipment. In addition, Contractor will invoice for installations completed on a site-by-site basis or when professional services are completed, when applicable. The value of the Equipment shipped/services performed will be determined by the value of the shipped/services performed as a percentage of the total milestone value. Unless otherwise specified, contract discounts are based upon all items proposed and overall System package. For invoicing purposes only, discounts will be applied proportionately to the FNE and Subscriber Equipment values to total Contract Price. Overdue invoices will bear simple interest at the maximum allowable rate.

The payment due based on achieving each milestone shall be reduced by any piecemeal payments made due to partial delivery of any part of service as described in the immediately preceding paragraph. In no event, will County pay more than the percentage of the total contract, as noted in the milestones, at completion of each milestone.

VI. PAYMENT - ELECTRONIC FUNDS TRANSFER (EFT)

The County of Orange offers contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County of Orange via an EFT Authorization Form. To request a form, please contact the department Deputy Purchasing Agent.

- VII. TAXPAYER ID NUMBER:** Contractor shall include its taxpayer ID number on all invoices submitted to the County for payment to ensure compliance with IRS requirements and to expedite payment processing.

- VIII. INVOICING INSTRUCTIONS:** Contractor will provide an invoice on the Contractor's letterhead for services rendered. Each invoice must have a unique number and must include the following information:

1. Contractor's name and address;
2. Name of County Department;
3. County Contract Number (MA); MA-057-20011572

4. Date of services rendered;
5. Service description;
6. Sales tax, when applicable
7. Contractor's Federal I.D. number; and,
8. Total Amount

Billing shall cover services and/or goods not previously invoiced. Contractor shall reimburse the County of Orange for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

Invoices shall itemize all fees, including all applicable Federal, State Tax and/or any other applicable tax and/or environmental fees as separate line items when invoicing.

Invoice and support documentation shall be mailed to:

COUNTY OF ORANGE
PROBATION: ACCOUNTS PAYABLE
PO BOX 10260
SANTA ANA, CA 92711-0260

Or

Emailed to Prob-AP@prob.ocgov.com.

The responsibility for providing an acceptable invoice to County for payment rests with Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to Contractor for correction. The County's Project Manager, or designee, is responsible for approval of invoices and subsequent submittal of invoices to the Auditor-Controller for processing of payment.

ATTACHMENT C
MOTOROLA SOFTWARE LICENSE AGREEMENT

This Exhibit A Motorola Software License Agreement ("Agreement") is between Motorola Solutions, Inc., ("Motorola"), and _____ ("Licensee").

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

Section 1 DEFINITIONS

1.1 "Designated Products" means products provided by Motorola to Licensee with which or for which the Software and Documentation is licensed for use.

1.2 "Documentation" means product and software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).

1.3 "Open Source Software" means software with either freely obtainable source code, license for modification, or permission for free distribution.

1.4 "Open Source Software License" means the terms or conditions under which the Open Source Software is licensed.

1.5 "Primary Agreement" means the agreement to which this exhibit is attached.

1.6 "Security Vulnerability" means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.

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

Section 2 SCOPE

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

Section 3 GRANT OF LICENSE

3.1. Subject to the provisions of this Agreement and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under Motorola's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.

3.2. If the Software licensed under this Agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and

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Section 4 LIMITATIONS ON USE

4.1. Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

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4.3. Unless otherwise authorized by Motorola in writing, Licensee will not, and will not enable or allow any third party to: (i) install a licensed copy of the Software on more than one unit of a Designated Product; or (ii) copy onto or transfer Software installed in one unit of a Designated Product onto one other device. Licensee may temporarily transfer Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Licensee provides written notice to Motorola of the temporary transfer and identifies the device on which the Software is transferred. Temporary transfer of the Software to another device must be discontinued when the original Designated Product is returned to operation and the Software must be removed from the other device. Licensee must provide prompt written notice to Motorola at the time temporary transfer is discontinued.

4.4 Licensee will maintain, during the term of this Agreement and for a period of two years thereafter, accurate records relating to this license grant to verify compliance with this Agreement. Motorola or an independent third party ("Auditor") may inspect Licensee's premises, books and records, upon reasonable prior notice to Licensee, during Licensee's normal business hours and subject to Licensee's facility and security regulations. Motorola is responsible for the payment of all expenses and costs of the Auditor. Any information obtained by Motorola and the Auditor will be kept in strict confidence by Motorola and the Auditor and used solely for the purpose of verifying Licensee's compliance with the terms of this Agreement.

Section 5 OWNERSHIP AND TITLE

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

Section 6 LIMITED WARRANTY; DISCLAIMER OF WARRANTY

6.1. Unless otherwise stated in the Primary Agreement, the commencement date and the term of the Software warranty will be a period of ninety (90) days from Motorola's shipment of the Software (the "Warranty Period"). If Licensee is not in breach of any of its obligations under this Agreement, Motorola warrants that the unmodified Software, when used properly and in accordance with the Documentation and this Agreement, will be free from a reproducible defect that eliminates the functionality or successful operation of a feature critical to the primary functionality or successful operation of the Software. Whether a defect occurs will be determined by Motorola solely with reference to the Documentation. Motorola does not warrant that Licensee's use of the Software or the Designated Products will be uninterrupted, error-free, completely free of Security Vulnerabilities, or that the Software or the Designated Products will meet Licensee's particular requirements. Motorola makes no representations or warranties with respect to any third party software included in the Software. Notwithstanding, any warranty provided by a copyright owner in its standard license terms will flow through to Licensee for third party software provided by Motorola.

6.2 Motorola's sole obligation to Licensee and Licensee's exclusive remedy under this warranty is to use reasonable efforts to remedy any material Software defect covered by this warranty. These efforts will involve either replacing the media or attempting to correct significant, demonstrable program or documentation errors or Security Vulnerabilities. If Motorola cannot correct the defect within a reasonable time, then at Motorola's option, Motorola will replace the defective Software with functionally-equivalent Software, license to Licensee substitute Software which will accomplish the same objective, or terminate the license and refund the Licensee's paid license fee.

6.3. Warranty claims are described in the Primary Agreement.

6.4. The express warranties set forth in this Section 6 are in lieu of, and Motorola disclaims, any and all other warranties (express or implied, oral or written) with respect to the Software or Documentation, including, without limitation, any and all implied warranties of condition, title, non-infringement, merchantability, or fitness for a particular purpose or use by Licensee (whether or not Motorola knows, has reason to know, has been advised, or is otherwise aware of any such purpose or use), whether arising by law, by reason of custom or usage of trade, or by course of dealing. In addition, Motorola disclaims any warranty to any person other than Licensee with respect to the Software or Documentation.

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provided that Licensee transfers all copies of the Software and Documentation to the transferee, and Licensee and the transferee sign a transfer form to be provided by Motorola upon request, obligating the transferee to be bound by this Agreement.

Section 8 TERM AND TERMINATION

8.1 Licensee's right to use the Software and Documentation will begin when the Primary Agreement is signed by both parties and will continue for the life of the Designated Products with which or for which the Software and Documentation have been provided by Motorola, unless Licensee breaches this Agreement, in which case this Agreement and Licensee's right to use the Software and Documentation may be terminated immediately upon notice by Motorola.

8.2 Within thirty (30) days after termination of this Agreement, Licensee must certify in writing to Motorola that all copies of the Software have been removed or deleted from the Designated Products and that all copies of the Software and Documentation have been returned to Motorola or destroyed by Licensee and are no longer in use by Licensee.

8.3 Licensee acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Software and Documentation and that Licensee's breach of this Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Licensee breaches this Agreement, Motorola may terminate this Agreement and be entitled to all available remedies at law or in equity (including immediate injunctive relief and repossession of all non-embedded Software and associated Documentation unless Licensee is a Federal agency of the United States Government).

Section 9 Commercial Computer Software

9.1 This Section 9 only applies to U.S. Government end users. The Software, Documentation and updates are commercial items as that term is defined at 48 C.F.R. Part 2.101, consisting of "commercial computer software" and "computer software documentation" as such terms are defined in 48 C.F.R. Part 252.227-7014(a)(1) and 48 C.F.R. Part 252.227-7014(a)(5), and used in 48 C.F.R. Part 12.212 and 48 C.F.R. Part 227.7202, as applicable. Consistent with 48 C.F.R. Part 12.212, 48 C.F.R. Part 252.227-7015, 48 C.F.R. Part 227.7202-1 through 227.7202-4, 48 C.F.R. Part 52.227-19, and other relevant sections of the Code of Federal Regulations, as applicable, the Software, Documentation and Updates are distributed and licensed to U.S. Government end users: (i) only as commercial items, and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions contained herein.

9.2 If Licensee is licensing Software for end use by the United States Government or a United States Government agency, Licensee may transfer such Software license, but only if: (i) Licensee transfers all copies of such Software and Documentation to such United States Government entity or interim transferee, and (ii) Licensee has first obtained from the transferee (if applicable) and ultimate end user an enforceable end user license agreement containing restrictions substantially identical to the ones contained in this Agreement. Except as stated in the foregoing, Licensee and any transferee(s) authorized by this subsection 9.2 may not otherwise use or transfer or make available any Motorola software to any third party nor permit any party to do so.

Section 10 CONFIDENTIALITY

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

Section 11 LIMITATION OF LIABILITY

The Limitation of Liability provision is described in the Primary Agreement.

Section 12 NOTICES

Notices are described in the Primary Agreement.

Section 13 GENERAL

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

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

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

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

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

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

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

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

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