

### THIRD AMENDMENT

This Amendment is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between Pinellas County, a political subdivision of the State of Florida, hereinafter referred to as "County," and Motorola Solutions, Inc., hereinafter referred to as "Contractor," (individually referred to as "Party", collectively "Parties").

#### WITNESSETH:

WHEREAS, the County and the Contractor entered into an agreement on September 19, 2022, pursuant to Pinellas County Contract No. 22-0387-S (hereinafter "Agreement") pursuant to which the Contractor agreed to provide Public Safety Communication Communications Products, Services and Solutions for County; and

WHEREAS, Section thirty-four (34) of the Agreement permits modification by mutual written agreement of the parties; and

WHEREAS, the County and the Contractor now wish to modify the Agreement in order to provide for a three (3) year term extension, and an increase to the contract total, at the same prices per the State of Florida Contract No. 43190000-22-NASPO-ACS (the "NASPO Contract"), and the same terms and conditions per the Agreement;

NOW THEREFORE, the Parties agree that the Agreement is amended as follows:

1. The Parties hereby agree to extend this agreement an additional three (3) years from January 30, 2024, to December 31, 2026, in conjunction with the cooperative procurement.

2. Section 6 ("Term of the Agreement and Spending Cap") is revised to reflect an increase in the amount of \$3,000,000.00 dollars to the current not-to-exceed expenditure of \$2,700,000.00, for a new total not-to-exceed expenditure of \$5,700,000.00 for the contract term.

3. The Parties hereby acknowledge that certain products listed in the NASPO Contract pricing list may require additional terms and conditions (if applicable) as stated in section 5.8 and section 5.9 of said contract. In addition, the Parties agree to include the applicable terms and conditions to the Agreement, attached as Exhibit C hereto. The Contractor's Subscription Services Agreement and Software License Agreement shall not conflict with the terms and conditions of the Agreement. If there are any conflicts between the Agreement and the Contractor's Subscription Services Agreement or Software License Agreement, the Agreement shall prevail.

4. Except as changed or modified herein, all provisions and conditions of the original Agreement and any amendments thereto shall remain in full force and effect.

Each Party to this Amendment represents and warrants that: (i) it has the full right and authority and has obtained all necessary approvals to enter into this Amendment; (ii) each person executing this Amendment on behalf of the Party is authorized to do so; (iii) this Amendment constitutes a valid and legally binding obligation of the Party, enforceable in accordance with its terms.

IN WITNESS WHEREOF the Parties herein have executed this Third Amendment as of the day and year first written above.

Pinellas County Florida, a political subdivision of the State of Florida:

Contractor: Motorola Solutions, Inc.



\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Daniel Sanchez  
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Title

Territory Vice President  
\_\_\_\_\_  
Printed Title

\_\_\_\_\_  
Date

3/29/2024  
\_\_\_\_\_  
Date

**APPROVED AS TO FORM**  
By: Keiah Townsend  
Office of the County Attorney

**EXHIBIT C**  
**Subscription Software Agreement**

This Subscription Software Agreement (the “**Subscription Software Agreement**”) is entered into between Motorola Solutions, Inc., with offices at 500 W. Monroe Street, Suite 4400, Chicago, IL 60661 (“**Motorola**”) and the entity set forth in the signature block below (“**Customer**”). Motorola and Customer will each be referred to herein as a “**Party**” and collectively as the “**Parties**”. This Agreement (as defined below) is effective as of the date of the last signature (the “**Effective Date**”).

**1. Agreement.**

**1.1. Scope; Agreement Documents.** This Subscription Software Agreement governs Customer’s purchase of cloud-based software as a service products and other software which is licensed to Customer by Motorola on a subscription basis (“**Subscription Software**”) and related services, which may be recurring or one-time (“**Services**”) provided by Motorola. Subscription Software and Services are collectively referred to as the “**Software and Services**”. Additional terms and conditions applicable to specific Software and Services are set forth in one or more addenda attached to this Subscription Software Agreement (each an “**Addendum**”, and collectively the “**Addenda**”). In addition, the Parties may agree upon statements of work, schedules, technical specifications, and other ordering documents setting forth the Software and Services to be purchased by Customer and provided by Motorola and additional rights and obligations of the Parties (the “**Ordering Documents**”). To the extent required by applicable procurement law, a proposal submitted by Motorola in response to a competitive procurement process will be included within the meaning of the term Ordering Documents. This Subscription Software Agreement, the Addenda, and any Ordering Documents collectively form the Parties’ “**Agreement**”.

**1.2. Order of Precedence.** Each Addendum will control with respect to conflicting terms in this Subscription Software Agreement, but only as applicable to the Software and Services described in such Addendum. Each Ordering Document will control with respect to conflicting terms in this Subscription Software Agreement or any Addenda, but only as applicable to the Software and Services described on such Ordering Document.

**2. Subscription Software.**

**2.1. Delivery.** During the applicable Subscription Term (as defined below), Motorola will provide to Customer the Subscription Software set forth in an Ordering Document, in accordance with the terms of the Agreement. Motorola will provide Customer advance notice (which may be provided electronically) of any planned downtime. Delivery will occur upon Customer’s receipt of credentials required for access to the Subscription Software or upon Motorola otherwise providing access to the Subscription Software. If agreed upon in an Ordering Document, Motorola will also provide Services related to such Subscription Software.

**2.2. Modifications.** Motorola may modify the Subscription Software, recurring Services and any related systems so long as their functionality (as described in the applicable Ordering Document) is not materially degraded. Documentation (as defined below) for the Subscription Software may be updated to reflect such modifications. For clarity, new features or enhancements that are added to any Subscription Software or Services may be subject to additional Fees.

**2.3. User Credentials.** If applicable, Motorola will provide Customer with administrative user credentials for the Subscription Software, and Customer will ensure such administrative user

credentials are accessed and used only by Customer's employees with training on their proper use. Customer will protect, and will cause its Authorized Users to protect, the confidentiality and security of all user credentials, including any administrative user credentials, and maintain user credential validity, including by updating passwords. Customer will be liable for any use of the Subscription Software through such user credential (including through any administrative user credentials), including any changes made to the Subscription Software or issues or user impact arising therefrom. To the extent Motorola provides Services to Customer in order to help resolve issues resulting from changes made to the Subscription Software through user credentials, including through any administrative user credentials, or issues otherwise created by Authorized Users, such Services will be billed to Customer on a time and materials basis, and Customer will pay all invoices in accordance with the payment terms below.

**2.4. Beta Services.** If Motorola makes any beta version of a software application ("**Beta Service**") available to Customer, Customer may choose to use such Beta Service at its own discretion, provided, however, that Customer will use the Beta Service solely for purposes of Customer's evaluation of such Beta Service, and for no other purpose. Customer acknowledges and agrees that all Beta Services are offered "as-is" and without any representations or warranties or other commitments or protections from Motorola. Motorola will determine the duration of the evaluation period for any Beta Service, in its sole discretion, and Motorola may discontinue any Beta Service at any time. Customer acknowledges that Beta Services, by their nature, have not been fully tested and may contain defects or deficiencies.

**2.5. Customer Obligations.** Customer will ensure that information Customer provides to Motorola in connection with receipt of Software and Services are 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 provide the Software and Services and perform its other duties under this Agreement. Unless the applicable Ordering Document states otherwise, Motorola may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions or Customer information, decisions, or approvals described in this Section. If any assumptions in the Ordering Documents or information provided by Customer prove to be incorrect, or if Customer fails to perform any of its obligations under this Agreement, Motorola's ability to perform its obligations may be impacted and changes to the Agreement, including the scope, Fees, and performance schedule may be required.

**2.6. Documentation.** Software and Services may be delivered with documentation for the equipment, software, or data that specifies technical and performance features, capabilities, users, or operation, including training manuals, and other deliverables, such as reports, specifications, designs, plans, drawings, analytics, or other information (collectively, "**Documentation**"). Documentation is and will be owned by Motorola, unless otherwise expressly agreed in an Addendum or Ordering Document that certain Documentation will be owned by Customer. Motorola hereby grants Customer a limited, royalty-free, worldwide, non-exclusive license to use the Documentation solely for its internal business purposes in connection with the Software and Services.

**2.7. Authorized Users.** Customer will ensure its employees and Authorized Users comply with the terms of this Agreement and will be liable for all acts and omissions of its employees and Authorized Users. Customer is responsible for the secure management of Authorized Users' names, passwords and login credentials for access to Software and Services. "**Authorized Users**" are Customer's employees, full-time contractors engaged for the purpose of supporting the Software and Services that are not competitors of Motorola, and the entities (if any) specified in an Ordering Document or otherwise approved by Motorola in writing (email

from an authorized Motorola signatory accepted), which may include affiliates or other Customer agencies.

**2.8. Support of Downloaded Clients.** If Customer purchases any Subscription Software that requires a client installed locally on Customer-Provided Equipment, Customer will be responsible for downloading and installing the current version of such client, as it may be updated from time to time. Motorola will use reasonable efforts to continue supporting any version of a client for forty-five (45) days following its release, but Motorola may update the current version of its client at any time, including for bug fixes, product improvements, and feature updates, and Motorola makes no representations or warranties that any Subscription Software will support prior versions of a client.

**2.9. Export Control.** Customer, its employees, and any other Authorized Users will not access or use the Software and Services in any jurisdiction in which the provision of such Software and Services is prohibited under applicable laws or regulations (a “**Prohibited Jurisdiction**”), and Customer will not provide access to the Software and Services to any government, entity, or individual located in a Prohibited Jurisdiction. Customer represents and warrants that (a) it and its Authorized Users are not named on any U.S. government list of persons prohibited from receiving U.S. exports, or transacting with any U.S. person; (b) it and its Authorized Users are not a national of, or a company registered in, any Prohibited Jurisdiction; (c) Customer will not permit its Authorized Users to access or use the Subscription Software or Services in violation of any U.S. or other applicable export embargoes, prohibitions or restrictions; and (d) Customer and its Authorized Users will comply with all applicable laws regarding the transmission of technical data exported from the U.S. and the country in which Customer, its employees, and the Authorized Users are located.

### **3. Term and Termination.**

**3.1. Subscription Terms.** The duration of Customer’s subscription to the first Subscription Software and any recurring Services ordered under this Subscription Software Agreement (or the first Subscription Software or recurring Service, if multiple are ordered at once) will commence upon delivery of such Subscription Software (and recurring Services, if applicable) and will continue for a twelve (12) month period or such longer period identified in an Ordering Document (the “**Initial Subscription Period**”). Following the Initial Subscription Period, Customer’s subscription to the Subscription Software and any recurring Services will automatically renew for additional twelve (12) month periods (each, a “**Renewal Subscription Year**”), unless either Party notifies the other Party of its intent not to renew at least thirty (30) days before the conclusion of the then-current Subscription Term. (The Initial Subscription Period and each Renewal Subscription Year will each be referred to herein as a “**Subscription Term**”.) Motorola may increase Fees prior to any Renewal Subscription Year. In such case, Motorola will notify Customer of such proposed increase no later than thirty (30) days prior to commencement of such Renewal Subscription Year. Unless otherwise specified in the applicable Ordering Document, if Customer orders any additional Subscription Software or recurring Services under this Subscription Software Agreement during an in-process Subscription Term, the subscription for each new Subscription Software or recurring Service will

- (a) commence upon delivery of such Subscription Software or Service, and continue until the conclusion of Customer’s then-current Subscription Term (a “**Partial Subscription Year**”), and
- (b) automatically renew for Renewal Subscription Years thereafter, unless either Party notifies the other Party of its intent not to renew at least thirty (30) days before the conclusion of the then-current Subscription Term. Thus, unless otherwise specified in the applicable Ordering Document, the Subscription Terms for all Subscription Software and recurring Services hereunder will be synchronized.

**3.2. Term.** The term of this Subscription Software Agreement (“**Term**”) will commence on the Effective Date and continue until the expiration or termination of all Subscription Terms under this Subscription Software Agreement, unless this Subscription Software Agreement is earlier terminated in accordance with the terms herein.

**3.3. Termination.**

3.3.1. **For Default.** Either Party may terminate the Agreement or the applicable Addendum or Ordering Document if the other Party breaches a material obligation under the Agreement and does not cure such breach within thirty (30) days after receipt of notice of the breach or fails to produce a cure plan within such period of time. Notwithstanding the foregoing, Motorola may terminate the Agreement (or any Addendum or Ordering Documents hereunder), or suspend delivery of Subscription Software or Services, immediately upon notice to Customer if (a) Customer breaches **Section 10.3 – Subscription Software License, Section 10.4 – End User Licenses, or Section 10.5 – Customer Restrictions** of this Subscription Software Agreement, or any other provision related to Subscription Software license scope or restrictions set forth in an Addendum or Ordering Document, or (b) it determines that Customer’s use of the Subscription Software poses, or may pose, a security or other risk or adverse impact to any Subscription Software, Motorola, Motorola’s systems, or any third party (including other Motorola customers). Customer acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Subscription Software and Documentation, and that Customer’s breach of the Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Customer breaches this Agreement, in addition to termination, Motorola will be entitled to all available remedies at law or in equity (including immediate injunctive relief).

3.3.2. **Addenda; Ordering Documents.** Each Addendum and Ordering Document may be separately terminable as set forth therein.

3.3.3. **Wind Down of Subscription Software.** Motorola may terminate any Ordering Document and Subscription Term, in whole or in part, in the event Motorola plans to cease offering the applicable Subscription Software or Service to customers.

**3.4. Suspension of Services.** Motorola may terminate or suspend any Software and Services under an Ordering Document if Motorola determines: (a) the related Subscription Software license has expired or has terminated for any reason; (b) the applicable Subscription Software is being used on a hardware platform, operating system, or version not approved by Motorola; (c) Customer fails to make any payments when due; or (d) Customer fails to comply with any of its other obligations or otherwise delays Motorola’s ability to perform.

**3.5. Effect of Termination or Expiration.** Upon termination for any reason or expiration of this Subscription Software Agreement, an Addendum, or an Ordering Document, Customer and the Authorized Users will stop use of any Subscription Software and return or destroy (at Motorola’s option) all Motorola Confidential Information in their possession or control and, as applicable, provide proof of such destruction. If Customer has any outstanding payment obligations under this Agreement, Motorola may accelerate and declare all such obligations of Customer immediately due and payable by Customer. Notwithstanding the reason for termination or expiration, Customer must pay Motorola for Software and Services already delivered. Customer has a duty to mitigate any damages under this Agreement, including in the event of default by Motorola and Customer’s termination of this Agreement.

#### **4. Payment and Invoicing.**

**4.1. Fees.** Unless otherwise provided in an Ordering Document, Customer will prepay an annual subscription fee for each Subscription Software and recurring Service, and pay any fees specified for other Services provided hereunder in accordance with the applicable Addendum or Ordering Document (the “**Fees**”), before the commencement of each Subscription Term. For any Partial Subscription Year, the applicable annual subscription Fee will be prorated based on the number of months in the Partial Subscription Year. The annual subscription Fee for Subscription Software and recurring Services may include certain one-time Fees, such as start-up fees, license fees, or other fees set forth in an Ordering Document. Motorola will have the right to suspend the Subscription Software and any recurring Services if Customer fails to make any payments when due. Fees may be changed by Motorola at any time, except that Motorola will not change the applicable Fees during a Subscription Term.

**4.2. Taxes.** The Fees do not include any excise, sales, lease, use, property, or other taxes, assessments, duties, or regulatory charges or contribution requirements (collectively, “**Taxes**”), all of which will be paid by Customer, except as exempt by law, unless otherwise specified in an Ordering Document. If Motorola is required to pay any Taxes, Customer will reimburse Motorola for such Taxes (including any interest and penalties) within thirty (30) days after Customer’s receipt of an invoice therefore. Motorola will be solely responsible for reporting taxes on its income and net worth.

**4.3. Invoicing; Payment.** Customer will pay Fees upon the earlier of (a) thirty (30) days prior to the commencement of the applicable Subscription Term, and (b) within thirty (30) days of the applicable invoice date, or as otherwise specified in the applicable Addendum or Ordering Document. Late payments will be subject to interest charges at the maximum rate permitted by law, commencing upon the due date. Motorola may invoice electronically via email, and Customer agrees to receive invoices via email at the email address set forth in an Ordering Document. Customer acknowledges and agrees that a purchase order or other notice to proceed is not required for payment for Software and Services.

**4.4. License True-Up.** Motorola will have the right to conduct an audit of total user licenses credentialed by Customer for any Subscription Software during a Subscription Term, and Customer will cooperate with such audit. If Motorola determines that Customer’s usage of the Subscription Software during the applicable Subscription Term exceeded the total number of licenses purchased by Customer, Motorola may invoice Customer for the additional licenses used by Customer, pro-rated for each additional license from the date such license was activated, and Customer will pay such invoice in accordance with the payment terms in this **Section 4 – Payment and Invoicing**.

#### **5. Customer-Provided Equipment; Non-Motorola Content.**

**5.1. Customer-Provided Equipment.** Certain components, including equipment and software, not provided by Motorola may be required for use of the Software and Services (“**Customer-Provided Equipment**”). Customer will be responsible, at its sole cost and expense, for providing and maintaining the Customer-Provided Equipment in good working order. Customer represents and warrants that it has all rights in Customer-Provided Equipment to permit Motorola to access and use the applicable Customer-Provided Equipment to provide the Software and Services under this Agreement, and such access and use will not violate any laws or infringe any third-party rights (including intellectual property rights). Customer (and not Motorola) will be fully liable for Customer-Provided Equipment damage, loss, change, or theft that may impact Motorola’s ability to provide the Software and Services under this Agreement, and

Customer acknowledges that any such events may cause a change in the Fees or performance schedule under the applicable Ordering Document.

**5.2. Non-Motorola Content.** In certain instances, Customer may be permitted to access, use, or integrate Customer or third-party software, services, content, and data that is not provided by Motorola (collectively, “**Non-Motorola Content**”) with or through the Software and Services. If Customer accesses, uses, or integrates any Non-Motorola Content with the Software and Services, Customer will first obtain all necessary rights and licenses to permit Customer’s and its Authorized Users’ use of the Non-Motorola Content in connection with the Software and Services. Customer will also obtain the necessary rights for Motorola to use such Non-Motorola Content in connection with providing the Software and Services, including the right for Motorola to access, store, and process such Non-Motorola Content (e.g., in connection with the Subscription Software), and to otherwise enable interoperation with the Software and Services. Customer represents and warrants that it will obtain the foregoing rights and licenses prior to accessing, using, or integrating the applicable Non-Motorola Content with the Software and Services, and that Customer and its Authorized Users will comply with any terms and conditions applicable to such Non-Motorola Content. If any Non-Motorola Content require access to Customer Data (as defined below), Customer hereby authorizes Motorola to allow the provider of such Non-Motorola Content to access Customer Data, in connection with the interoperation of such Non-Motorola Content with the Software and Services. Customer acknowledges and agrees that Motorola is not responsible for, and makes no representations or warranties with respect to, the Non-Motorola Content (including any disclosure, modification, or deletion of Customer Data resulting from use of Non-Motorola Content or failure to properly interoperate with the Software and Services). If Customer receives notice that any Non-Motorola Content must be removed, modified, or disabled within the Software and Services, Customer will promptly do so. Motorola will have the right to disable or remove Non-Motorola Content if Motorola believes a violation of law, third-party rights, or Motorola’s policies is likely to occur, or if such Non-Motorola Content poses or may pose a security or other risk or adverse impact to the Software and Services, Motorola, Motorola’s systems, or any third party (including other Motorola customers). Nothing in this Section will limit the exclusions set forth in **Section 7.1 – Intellectual Property Infringement**.

## **6. Representations and Warranties.**

**6.1. Mutual Representations and Warranties.** Each Party represents and warrants to the other Party that (a) it has the right to enter into the Agreement and perform its obligations hereunder, and (b) the Agreement will be binding on such Party.

**6.2. WARRANTY DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTIES IN THIS AGREEMENT, SOFTWARE AND SERVICES PURCHASED HEREUNDER ARE PROVIDED “AS IS” AND WITH ALL FAULTS. WARRANTIES SET FORTH IN THE AGREEMENT ARE THE COMPLETE WARRANTIES FOR THE SOFTWARE AND SERVICES AND MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND QUALITY. MOTOROLA DOES NOT REPRESENT OR WARRANT THAT USE OF THE SOFTWARE AND SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF SECURITY VULNERABILITIES, OR THAT THEY WILL MEET CUSTOMER’S PARTICULAR REQUIREMENTS.

## **7. Indemnification.**

**7.1. Intellectual Property Infringement.** Motorola will defend Customer against any third-party claim alleging that a Motorola-developed Subscription Software (the “**Infringing Product**”)



directly infringes a United States patent or copyright (“**Infringement Claim**”), and Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim, or agreed to in writing by Motorola in settlement of an Infringement Claim. Motorola’s duties under this **Section 7.1 – Intellectual Property Infringement** are conditioned upon: (a) Customer promptly notifying Motorola in writing of the Infringement Claim; (b) Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and (c) Customer cooperating with Motorola and, if requested by Motorola, providing reasonable assistance in the defense of the Infringement Claim.

7.1.1. If an Infringement Claim occurs, or in Motorola’s opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Infringing Product; (b) replace or modify the Infringing Product so that it becomes non-infringing; or (c) grant Customer a pro-rated refund of any amounts pre-paid for the Infringing Product.

7.1.2. In addition to the other damages disclaimed under this Agreement, Motorola will have no duty to defend or indemnify Customer for any Infringement Claim that arises from or is based upon: (a) Customer Data, Customer-Provided Equipment, Non-Motorola Content, or third-party equipment, hardware, software, data, or other third-party materials; (b) the combination of the Subscription Software or Services with any products or materials not provided by Motorola; (c) any Subscription Software or Service designed, modified, or manufactured in accordance with Customer’s designs, specifications, guidelines or instructions; (d) a modification of the Subscription Software or Services by a party other than Motorola; (e) use of the Subscription Software or Services in a manner for which the Subscription Software or Service was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to use or install an update to the Subscription Software or Services that is intended to correct the claimed infringement. In no event will Motorola’s liability resulting from an Infringement Claim extend in any way to any payments due on a royalty basis, other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the Infringing Product.

7.1.3. This **Section 7.1 – Intellectual Property Infringement** provides Customer’s sole and exclusive remedies and Motorola’s entire liability in the event of an Infringement Claim. For clarity, the rights and remedies provided in this Section are subject to, and limited by, the restrictions set forth in **Section 8 – Limitation of Liability** below.

**7.2. Customer Indemnity.** Customer will defend, indemnify, and hold Motorola and its subcontractors, subsidiaries and other affiliates harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable fees and expenses of attorneys) arising from any actual or threatened third-party claim, demand, action, or proceeding arising from or related to (a) Customer-Provided Equipment, Customer Data, or Non-Motorola Content, including any claim, demand, action, or proceeding alleging that any such equipment, data, or materials (or the integration or use thereof with the Software and Services) infringes or misappropriates a third-party intellectual property or other right, violates applicable law, or breaches the Agreement, (b) Customer-Provided Equipment’s failure to meet the minimum requirements set forth in the applicable Documentation or match the applicable specifications provided to Motorola by Customer in connection with the Subscription Software or Services; (c) Customer’s (or its service providers, agents, employees, or Authorized User’s) negligence or willful misconduct; and (d) Customer’s or its Authorized User’s breach of this Agreement. This

indemnity will not apply to the extent any such claim is caused by Motorola's use of Customer-Provided Equipment, Customer Data, or Non-Motorola Content in violation of the Agreement. Motorola will give Customer prompt, written notice of any claim subject to the foregoing indemnity. Motorola will, at its own expense, cooperate with Customer in its defense or settlement of the claim.

## **8. Limitation of Liability.**

**8.1. DISCLAIMER OF CONSEQUENTIAL DAMAGES.** EXCEPT FOR PERSONAL INJURY OR DEATH, MOTOROLA, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SUBCONTRACTORS, AGENTS, SUCCESSORS, AND ASSIGNS (COLLECTIVELY, THE "**MOTOROLA PARTIES**") WILL NOT BE LIABLE IN CONNECTION WITH THIS AGREEMENT (WHETHER UNDER MOTOROLA'S INDEMNITY OBLIGATIONS, A CAUSE OF ACTION FOR BREACH OF CONTRACT, UNDER TORT THEORY, OR OTHERWISE) FOR, ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS OR REVENUES, EVEN IF MOTOROLA HAS BEEN ADVISED BY CUSTOMER OR ANY THIRD PARTY OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES AND WHETHER OR NOT SUCH DAMAGES OR LOSSES ARE FORESEEABLE.

**8.2. DIRECT DAMAGES.** EXCEPT FOR PERSONAL INJURY OR DEATH, THE TOTAL AGGREGATE LIABILITY OF THE MOTOROLA PARTIES, WHETHER BASED ON A CLAIM IN CONTRACT OR IN TORT, LAW OR EQUITY, RELATING TO OR ARISING OUT OF THE AGREEMENT WILL NOT EXCEED THE TOTAL FEES PAID FOR THE SUBSCRIPTION SOFTWARE TO WHICH THE CLAIM IS RELATED DURING THE CONSECUTIVE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT FROM WHICH THE FIRST CLAIM AROSE.

**8.3. ADDITIONAL EXCLUSIONS.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, MOTOROLA WILL HAVE NO LIABILITY FOR DAMAGES ARISING OUT OF (A) CUSTOMER DATA, INCLUDING ITS TRANSMISSION TO MOTOROLA, OR ANY OTHER DATA AVAILABLE THROUGH THE SUBSCRIPTION SOFTWARE OR SERVICES; (B) CUSTOMER-PROVIDED EQUIPMENT, NON-MOTOROLA CONTENT, CUSTOMER'S SITES, OR THIRD-PARTY EQUIPMENT, HARDWARE, SOFTWARE, DATA, OR OTHER THIRD-PARTY MATERIALS, OR THE COMBINATION OF THE SUBSCRIPTION SOFTWARE OR SERVICES WITH ANY OF THE FOREGOING; (C) LOSS OF DATA OR HACKING; (D) MODIFICATION OF SUBSCRIPTION SOFTWARE OR SERVICES BY ANY PERSON OTHER THAN MOTOROLA; (E) RECOMMENDATIONS PROVIDED IN CONNECTION WITH OR BY THE SUBSCRIPTION SOFTWARE AND SERVICES; (F) DATA RECOVERY SERVICES OR DATABASE MODIFICATIONS; (G) INTERRUPTION OR FAILURE OF CONNECTIVITY, VULNERABILITIES, OR SECURITY EVENTS; (H) DISRUPTION OF OR DAMAGE TO CUSTOMER'S OR THIRD PARTIES' SYSTEMS, EQUIPMENT, OR DATA, INCLUDING DENIAL OF ACCESS TO USERS, OR SHUTDOWN OF SYSTEMS CAUSED BY INTRUSION DETECTION SOFTWARE OR HARDWARE; (I) AVAILABILITY OR ACCURACY OF ANY DATA AVAILABLE THROUGH THE SUBSCRIPTION SOFTWARE OR SERVICES, OR INTERPRETATION, USE, OR MISUSE THEREOF; (J) TRACKING AND LOCATION-BASED SERVICES; (K) BETA SERVICES; OR (L) CUSTOMER'S OR ANY AUTHORIZED USER'S BREACH OF THIS AGREEMENT OR MISUSE OF THE SUBSCRIPTION SOFTWARE OR SERVICES.

**8.4. Voluntary Remedies.** Motorola is not obligated to remedy, repair, replace, or refund the purchase price for the disclaimed issues in **Section 8.3 – Additional Exclusions** above, but if Motorola agrees to provide Services to help resolve such issues, Customer will reimburse

Motorola for its reasonable time and expenses, including by paying Motorola any Fees set forth in an Ordering Document for such Services, if applicable.

**8.5. Statute of Limitations.** Customer may not bring any claims against a Motorola Party in connection with this Agreement or the Software and Services more than one (1) year after the date of accrual of the cause of action.

## **9. Confidentiality.**

**9.1. Confidential Information.** “**Confidential Information**” means any and all non-public information provided by one Party (“**Discloser**”) to the other (“**Recipient**”) that is disclosed under this Agreement in oral, written, graphic, machine recognizable, or sample form, being clearly designated, labeled or marked as confidential or its equivalent or that a reasonable businessperson would consider non-public and confidential by its nature. With respect to Motorola, Confidential Information will also include Software and Services, and Documentation, as well as any other information relating to the Software and Services. The nature and existence of this Agreement are considered Confidential Information of the Parties. In order to be considered Confidential Information, information that is disclosed orally must be identified as confidential at the time of disclosure and confirmed by Discloser by submitting a written document to 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.

**9.2. Obligations of Confidentiality.** During the Term and for a period of three (3) years from the expiration or termination of this Agreement, Recipient will (a) not disclose Confidential Information to any third party, except as expressly permitted in this **Section 9 – Confidentiality**; (b) restrict disclosure of Confidential Information to only those employees (including, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must access the Confidential Information for the purpose of, and who are bound by confidentiality terms substantially similar to those in, this Agreement; (c) not copy, reproduce, reverse engineer, de-compile or disassemble any Confidential Information; (d) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (e) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Agreement; and (f) only use the Confidential Information as needed to fulfill its obligations and secure its rights under this Agreement.

**9.3. Exceptions.** Recipient is not obligated to maintain as confidential any information that Recipient can demonstrate by documentation (a) is publicly available at the time of disclosure or becomes available to the public without breach of this Agreement; (b) is lawfully obtained from a third party without a duty of confidentiality to Discloser; (c) is otherwise lawfully known to Recipient prior to such disclosure without a duty of confidentiality to Discloser; or (d) is independently developed by Recipient without the use of, or reference to, any of Discloser’s Confidential Information or any breach of this Agreement. Additionally, Recipient may disclose Confidential Information to the extent required by law, including a judicial or legislative order or proceeding.

**9.4. Ownership of Confidential Information.** All Confidential Information is and will remain the property of Discloser and will not be copied or reproduced without the express written permission of Discloser (including as permitted herein). Within ten (10) days of receipt of Discloser’s written request, Recipient will return or destroy all Confidential Information to

Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain (a) one (1) archival copy of the Confidential Information for use only in case of a dispute concerning this Agreement and (b) Confidential Information that has been automatically stored in accordance with Recipient's standard backup or recordkeeping procedures, provided, however that Recipient will remain subject to the obligations of this Agreement with respect to any Confidential Information retained subject to clauses (a) or (b). No license, express or implied, in the Confidential Information is granted to the Recipient other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. Discloser represents and warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

## **10. Proprietary Rights and Subscription Software License; Data; Feedback.**

**10.1. Data Definitions.** The following terms will have the stated meanings: “**Customer Contact Data**” means data Motorola collects from Customer, its Authorized Users, and their end users for business contact purposes, including marketing, advertising, licensing and sales purposes; “**Service Use Data**” means data generated by Customer's use of the Software and Services or by Motorola's support of the Software and Services, including personal information, location, monitoring and recording activity, product performance and error information, activity logs and date and time of use; “**Customer Data**” means data, information, and content, including images, text, videos, documents, audio, telemetry and structured data base records, provided by, through, or on behalf of Customer, its Authorized Users, and their end users through the use of the Software and Services. Customer Data does not include Customer Contact Data, Service Use Data, or information from publicly available sources or other Third-Party Data or Motorola Data; “**Third-Party Data**” means information obtained by Motorola from publicly available sources or its third party content providers and made available to Customer through the Subscription Software or Services; “**Motorola Data**” means data owned or licensed by Motorola; “**Feedback**” means comments or information, in oral or written form, given to Motorola by Customer or Authorized Users, including their end users, in connection with or relating to the Subscription Software or Services; and “**Process**” or “**Processing**” means any operation or set of operations which is performed on personal information or on sets of personal information, whether or not by automated means, such as collection, recording, copying, analyzing, caching, organization, structuring, storage, adaptation, or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**10.2. Motorola Materials.** Customer acknowledges that Motorola may use or provide Customer with access to software, tools, data, and other materials, including designs, utilities, models, methodologies, systems, and specifications, which Motorola has developed or licensed from third parties (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, or derivative works of the foregoing, whether made by Motorola or another party) (collectively, “**Motorola Materials**”). The Software and Services, Motorola Data, Third-Party Data, and Documentation, are considered Motorola Materials. Except when Motorola has expressly transferred title or other interest to Customer by way of an Addendum or Ordering Document, the Motorola Materials are the property of Motorola or its licensors, and Motorola or its licensors retain all right, title and interest in and to the Motorola Materials (including, all rights in patents, copyrights, trademarks, trade names, trade secrets, know-how, other intellectual property and proprietary rights, and all associated goodwill and moral rights). For clarity, this Agreement does not grant to Customer any shared development rights in or to any Motorola Materials or other intellectual property, and Customer agrees to execute any documents and take any other actions reasonably requested by Motorola to effectuate the foregoing. Motorola and its licensors reserve all rights not expressly granted to

Customer, and no rights, other than those expressly granted herein, are granted to Customer by implication, estoppel or otherwise. Customer will not modify, disassemble, reverse engineer, derive source code or create derivative works from, merge with other software, distribute, sublicense, sell, or export the Software and Services or other Motorola Materials, or permit any third party to do so.

**10.3. Subscription Software License.** Subject to Customer's and its Authorized Users' compliance with the Agreement (including payment terms), Motorola hereby grants Customer and its Authorized Users a limited, non-transferable, non-sublicenseable, and non-exclusive license to use the Subscription Software identified in an Ordering Document, and the associated Documentation, solely for Customer's internal business purposes. The foregoing license grant will be limited to use in the territory and to the number of licenses set forth in an Ordering Document (if applicable), and will continue for the applicable Subscription Term. Customer may access, and use the Subscription Software only in Customer's owned or controlled facilities, including any authorized mobile sites; provided, however, that Authorized Users using authorized mobile or handheld devices may also log into and access the Subscription Software remotely from any location. No custom development work will be performed under this Agreement.

**10.4. End User Licenses.** Notwithstanding any provision to the contrary in the Agreement, certain Subscription Software is governed by a separate license, EULA, or other agreement, including terms governing third-party software, such as open source software, included in the Subscription Software. Customer will comply, and ensure its Authorized Users comply, with such additional license agreements.

**10.5. Customer Restrictions.** Customers and Authorized Users will comply with the applicable Documentation and the copyright laws of the United States and all other relevant jurisdictions (including the copyright laws where Customer uses the Subscription Software) in connection with their use of the Subscription Software. Customer will not, and will not allow others, including the Authorized Users, to make the Subscription Software available for use by unauthorized third parties, including via a commercial rental or sharing arrangement; reverse engineer, disassemble, or reprogram software used to provide the Subscription Software or any portion thereof to a human-readable form; modify, create derivative works of, or merge the Subscription Software or software used to provide the Subscription Software with other software; copy, reproduce, distribute, lend, or lease the Subscription Software, software used to provide the Subscription Software, or Documentation for or to any third party; take any action that would cause the Subscription Software or Documentation to be placed in the public domain; use the Subscription Software to compete with Motorola; remove, alter, or obscure, any copyright or other notice; share user credentials (including among Authorized Users); use the Subscription Software to store or transmit malicious code; or attempt to gain unauthorized access to the Subscription Software or its related systems or networks.

**10.6. Ownership of Customer Data.** Customer retains all right, title and interest, including intellectual property rights, if any, in and to Customer Data. Motorola acquires no rights to Customer Data except those rights granted under this Agreement including the right to Process and use the Customer Data as set forth in **Section 10.7 – Processing Customer Data** below and in other applicable Addenda. The Parties agree that with regard to the Processing of personal information which may be part of Customer Data, Customer is the controller and Motorola is the processor, and may engage sub-processors pursuant to **Section 10.7.3 – Sub-processors**.

**10.7. Processing Customer Data.**

10.7.1. Motorola Use of Customer Data. To the extent permitted by law, Customer grants Motorola and its subcontractors a right to use Customer Data and a royalty-free, worldwide, non-exclusive license to use Customer Data (including to process, host, cache, store, reproduce, copy, modify, combine, analyze, create derivative works from such Customer Data and to communicate, transmit, and distribute such Customer Data to third parties engaged by Motorola) to (a) perform Services and provide the Subscription Software under the Agreement, (b) analyze the Customer Data to operate, maintain, manage, and improve Motorola products and services, and (c) create new products and services. Customer agrees that this Agreement, along with the Documentation, are Customer's complete and final documented instructions to Motorola for the processing of Customer Data. Any additional or alternate instructions must be agreed to according to the Change Order process. Customer represents and warrants to Motorola that Customer's instructions, including appointment of Motorola as a processor or sub-processor, have been authorized by the relevant controller.

10.7.2. Collection, Creation, Use of Customer Data. Customer further represents and warrants that the Customer Data, Customer's collection, creation, and use of the Customer Data (including in connection with Motorola's Software and Services), and Motorola's use of such Customer Data in accordance with the Agreement, will not violate any laws or applicable privacy notices or infringe any third-party rights (including intellectual property and privacy rights). Customer also represents and warrants that the Customer Data will be accurate and complete, and that Customer has obtained all required consents, provided all necessary notices, and met any other applicable legal requirements with respect to collection and use (including Motorola's and its subcontractors' use) of the Customer Data as described in the Agreement.

10.7.3. Sub-processors. Customer agrees that Motorola may engage sub-processors who in turn may engage additional sub-processors to Process personal data in accordance with this Agreement. When engaging sub-processors, Motorola will enter into agreements with the sub-processors to bind them to data processing obligations to the extent required by law.

**10.8. Data Retention and Deletion**. Except for anonymized Customer Data, as described above, or as otherwise provided under the Agreement, Motorola will delete all Customer Data following termination or expiration of this Subscription Software Agreement or the applicable Addendum or Ordering Document, with such deletion to occur no later than ninety (90) days following the applicable date of termination or expiration, unless otherwise required to comply with applicable law. Any requests for the exportation or download of Customer Data must be made by Customer to Motorola in writing before expiration or termination, subject to **Section 14.9 – Notices**. Motorola will have no obligation to retain such Customer Data beyond expiration or termination unless the Customer has purchased extended storage from Motorola through a mutually executed Ordering Document.

**10.9. Service Use Data**. Customer understands and agrees that Motorola may collect and use Service Use Data for its own purposes, including the uses described below. Motorola may use Service Use Data to (a) operate, maintain, manage, and improve existing and create new products and services, (b) test products and services, (c) to aggregate Service Use Data and combine it with that of other users, and (d) to use anonymized or aggregated data for marketing, research or other business purposes. Service Use Data may be disclosed to third parties. It is Customer's responsibility to notify Authorized Users of Motorola's collection and use of Service

Use Data and to obtain any required consents, provide all necessary notices, and meet any other applicable legal requirements with respect to such collection and use, and Customer represents and warrants to Motorola that it has complied and will continue to comply with this Section.

**10.10. Third-Party Data and Motorola Data.** Motorola Data and Third-Party Data may be available to Customer through the Software and Services. Customer and its Authorized Users may use Motorola Data and Third-Party Data as permitted by Motorola and the applicable Third-Party Data provider, as described in the applicable Addendum. Unless expressly permitted in the applicable Addendum, Customer will not, and will ensure its Authorized Users will not: (a) use the Motorola Data or Third-Party Data for any purpose other than Customer's internal business purposes; (b) disclose the data to third parties; (c) "white label" such data or otherwise misrepresent its source or ownership, or resell, distribute, sublicense, or commercially exploit the data in any manner; (d) use such data in violation of applicable laws; (e) remove, obscure, alter, or falsify any marks or proprietary rights notices indicating the source, origin, or ownership of the data; or (f) modify such data or combine it with Customer Data or other data or use the data to build databases. Additional restrictions may be set forth in the applicable Addendum. Any rights granted to Customer or Authorized Users with respect to Motorola Data or Third-Party Data will immediately terminate upon termination or expiration of the applicable Addendum, Ordering Document, or this Subscription Software Agreement. Further, Motorola or the applicable Third-Party Data provider may suspend, change, or terminate Customer's or any Authorized User's access to Motorola Data or Third-Party Data if Motorola or such Third-Party Data provider believes Customer's or the Authorized User's use of the data violates the Agreement, applicable law or Motorola's agreement with the applicable Third-Party Data provider. Upon termination of Customer's rights to use any Motorola Data or Third-Party Data, Customer and all Authorized Users will immediately discontinue use of such data, delete all copies of such data, and certify such deletion to Motorola. Notwithstanding any provision of the Agreement to the contrary, Motorola will have no liability for Third-Party Data or Motorola Data available through the Software and Services. Motorola and its Third-Party Data providers reserve all rights in and to Motorola Data and Third-Party Data not expressly granted in an Addendum or Ordering Document.

**10.11. Feedback.** Any Feedback provided by Customer is entirely voluntary, and will not create any confidentiality obligation for Motorola, even if designated as confidential by Customer. Motorola may use, reproduce, license, and otherwise distribute and exploit the Feedback without any obligation or payment to Customer or Authorized Users and Customer represents and warrants that it has obtained all necessary rights and consents to grant Motorola the foregoing rights.

**10.12. Improvements; Software and Services.** The Parties agree that, notwithstanding any provision of this Subscription Software Agreement or the Agreement to the contrary, all fixes, modifications and improvements to the services or products conceived of or made by or on behalf of Motorola that are based either in whole or in part on the Feedback, Customer Data, or Service Use Data (or otherwise) are the exclusive property of Motorola and all right, title and interest in and to such fixes, modifications or improvements will vest solely in Motorola. Customer agrees to execute any written documents necessary to assign any intellectual property or other rights it may have in such fixes, modifications or improvements to Motorola.

**11. Motorola as a Controller or Joint Controller.** In all instances where Motorola acts as a controller of data, it will comply with the applicable provisions of the Motorola Privacy Statement at [https://www.motorolasolutions.com/en\\_us/about/privacy-policy.html#privacystatement](https://www.motorolasolutions.com/en_us/about/privacy-policy.html#privacystatement), as may be updated from time to time. Motorola holds all Customer Contact Data as a controller

and shall Process such Customer Contact Data in accordance with the Motorola Privacy Statement. In instances where Motorola is acting as a joint controller with Customer, the Parties will enter into a separate Addendum to the Agreement to allocate the respective roles as joint controllers.

## **12. Force Majeure; Delays Caused by Customer.**

**12.1. Force Majeure.** Except for Customer's payment obligations hereunder, neither Party will be responsible for nonperformance or delayed performance due to events outside of its reasonable control. If performance will be significantly delayed, the affected Party will provide notice to the other Party, and the Parties will agree (in writing) upon a reasonable extension to any applicable performance schedule.

**12.2. Delays Caused by Customer.** Motorola's performance of the Software and Services will be excused for delays caused by Customer or its Authorized Users or subcontractors, or by failure of any assumptions set forth in this Agreement (including in any Addendum or Ordering Document). In the event of a delay under this **Section 12.2 – Delays Caused by Customer**, (a) Customer will continue to pay the Fees as required hereunder, (b) the Parties will agree (in writing) upon a reasonable extension to any applicable performance schedule, and (c) Customer will compensate Motorola for its out-of-pocket costs incurred due to the delay (including those incurred by Motorola's affiliates, vendors, and subcontractors).

**13. Disputes.** The Parties will use the following procedure to resolve any disputes relating to or arising out of this Agreement (each, a "**Dispute**"):

**13.1. Governing Law.** All matters relating to or arising out of the Agreement are governed by the laws of the State of Illinois, unless Customer is the United States Government (or an agency thereof), in which case all matters relating to or arising out of the Agreement will be governed by the laws of the State in which the Software and Services are provided. The terms of the U.N. Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act will not apply.

**13.2. Negotiation; Mediation.** Either Party may initiate dispute resolution procedures by sending a notice of Dispute ("**Notice of Dispute**") to the other Party. The Parties will attempt to resolve the Dispute promptly through good faith negotiations, including 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). If a Dispute is not resolved through negotiation, either Party may initiate mediation by sending a notice of mediation ("**Notice of Mediation**") to the other Party. The Parties will choose an independent mediator within thirty (30) days of such Notice of Mediation. Neither Party may unreasonably withhold consent to the selection of a mediator, but if the Parties are unable to agree upon a mediator, either Party may request that the 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. All in person meetings under this **Section 13.2 – Negotiation; Mediation** will take place in Chicago, Illinois, and all communication relating to the Dispute resolution will be maintained in strict confidence by the Parties. Notwithstanding the foregoing, any Dispute arising from or relating to Motorola's intellectual property rights will not be subject to negotiation or mediation in accordance with this Section, but instead will be decided by a court of competent jurisdiction, in accordance with **Section 13.3 – Litigation, Venue, Jurisdiction** below.



**13.3. Litigation, Venue, Jurisdiction.** If the Dispute has not been resolved by mediation within sixty (60) days from the Notice of Mediation, either Party may submit the Dispute exclusively to a court in Cook County, Illinois. Each Party expressly consents to the exclusive jurisdiction of such courts for resolution of any Dispute and to enforce the outcome of any mediation.

#### **14. General.**

**14.1. Compliance with Laws.** Each Party will comply with applicable laws in connection with the performance of its obligations under this Agreement, including that Customer will ensure its and its Authorized Users' use of the Software and Services complies with law (including privacy laws), and Customer will obtain any FCC and other licenses or authorizations (including licenses or authorizations required by foreign regulatory bodies) required for its and its Authorized Users' use of the Software and Services. Motorola may, at its discretion, cease providing or otherwise modify Software and Services (or any terms related thereto in an Addendum or Ordering Document), in order to comply with any changes in applicable law.

**14.2. Audit; Monitoring.** Motorola will have the right to monitor and audit use of the Subscription Software, which may also include access by Motorola to Customer Data and Service Use Data. Customer will provide notice of such monitoring to its Authorized Users and obtain any required consents, including individual end users, and will cooperate with Motorola in any monitoring or audit. Customer will maintain during the Term, and for two (2) years thereafter, accurate records relating to the Subscription Software licenses granted under this Agreement to verify compliance with this Agreement. Motorola or a third party ("**Auditor**") may inspect Customer's and, as applicable, Authorized Users' premises, books, and records. Motorola will pay expenses and costs of the Auditor, unless Customer is found to be in violation of the terms of the Agreement, in which case Customer will be responsible for such expenses and costs.

**14.3. Assignment and Subcontracting.** Neither Party may assign or otherwise transfer this Agreement without the prior written approval of the other Party. Motorola may assign or otherwise transfer this Agreement or any of its rights or obligations under this Agreement without consent (a) for financing purposes, (b) in connection with a merger, acquisition or sale of all or substantially all of its assets, (c) as part of a corporate reorganization, or (d) to a subsidiary corporation. Subject to the foregoing, this Agreement will be binding upon the Parties and their respective successors and assigns.

**14.4. Waiver.** A delay or omission by either Party to exercise any right under this Agreement will not be construed to be a waiver of such right. A waiver by either Party of any of the obligations to be performed by the other, or any breach thereof, will not be construed to be a waiver of any succeeding breach or of any other obligation. All waivers must be in writing and signed by the Party waiving its rights.

**14.5. Severability.** If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, such provision will be deemed to be modified to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law. The remaining provisions of this Agreement will not be affected, and each such provision will be valid and enforceable to the full extent permitted by applicable law.

**14.6. Independent Contractors.** Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will

not constitute, create, or be interpreted as a joint venture, partnership, or formal business organization of any kind.

**14.7. Third-Party Beneficiaries.** The Agreement is entered into solely between, and may be enforced only by, the Parties. Each Party intends that the Agreement will not benefit, or create any right or cause of action in or on behalf of, any entity other than the Parties. Notwithstanding the foregoing, a licensor or supplier of third-party software included in the Subscription Software will be a direct and intended third-party beneficiary of this Agreement.

**14.8. Interpretation.** The section headings in this Agreement are included only for convenience. The words “including” and “include” will be deemed to be followed by the phrase “without limitation”. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.

**14.9. Notices.** Notices required under this Agreement to be given by one Party to the other must be in writing and either personally delivered or sent to the address provided by the other Party by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as FedEx, UPS, or DHL), and will be effective upon receipt.

**14.10. Cumulative Remedies.** Except as specifically stated in this Agreement, all remedies provided for in this Agreement will be cumulative and in addition to, and not in lieu of, any other remedies available to either Party at law, in equity, by contract, or otherwise. Except as specifically stated in this Agreement, the election by a Party of any remedy provided for in this Agreement or otherwise available to such Party will not preclude such Party from pursuing any other remedies available to such Party at law, in equity, by contract, or otherwise.

**14.11. Survival.** The following provisions will survive the expiration or termination of this Agreement for any reason: **Section 2.5 – Customer Obligations; Section 3 – Term and Termination; Section 4 – Payment and Invoicing; Section 6.2 – Warranty Disclaimer; Section 7.2 – Customer Indemnity; Section 8 – Limitation of Liability; Section 9 – Confidentiality; Section 10 – Proprietary Rights and Subscription Software License; Data; Feedback; Section 12 – Force Majeure; Delays Caused by Customer; Section 13 – Disputes; and Section 14 – General.**

**14.12. Entire Agreement.** This Agreement, including all Addenda and Ordering Documents, constitutes the entire agreement of the Parties regarding the subject matter hereto, and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and will have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing or by electronic signature. An electronic signature, facsimile copy, or computer image of a signature, will be treated, and will have the same effect as an original signature, and will have the same effect, as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase order, acknowledgment, or other form will not be considered an amendment or modification or part of this Agreement, even if a representative of each Party signs such document.

## Subscription Services Addendum

### Exhibit A: Verizon Service Terms - APXNext

For purposes of this Addendum, "Service" means wireless services provided directly or indirectly by Verizon which may include but is not limited to data transmission services between wireless devices and computer servers or other machines, or between wireless devices, with limited or no manual intervention or supervision. Customer acknowledges that Motorola is not a Telecommunications Services Provider, as defined in the 47 U.S.C. sec. 163, and to include within that definition, but not be limited to, Inter-exchange Carrier, BLEC, CLEC, ILEC and/or DLEC, or wireless service provider pursuant to licenses issued by the FCC pursuant to the FCC's rules.

Customer agrees to comply with the additional responsibilities for access to and use of the Service provided by Verizon:

**Service Availability.** The Service uses radio technologies and is subject to transmission and service area limitations, interruptions and dropped calls caused by atmospheric, topographical or environmental conditions, cell site availability, equipment or its installation, governmental regulations, system limitations, maintenance or other conditions or activities affecting Service operation. The Service and/or features may not be available in all areas. The Service is only available within each applicable calling plan coverage area, within the operating range of the wireless systems, and with equipment that is authorized to operate on Verizon's network.

**WARRANTY DISCLAIMER.** VERIZON AND ITS AFFILIATES AND CONTRACTORS MAKE NO WARRANTIES WHATSOEVER, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, DURABILITY, FITNESS FOR USE, QUALITY, PERFORMANCE OR NON-INFRINGEMENT OF THE SERVICE OR EQUIPMENT OR THEIR USE IN CONNECTION WITH THE CUSTOMER PROVIDED EQUIPMENT OR THE COMPANY PRODUCT OR SERVICE. WITH RESPECT TO VERIZON.

**Content Disclaimer.** Neither Verizon nor Motorola exercises control over nor has any responsibility for the accuracy, quality, security or other aspect of any content accessed, received, transmitted, stored, processed or used through Verizon facilities or any Services (except to the extent particular Services explicitly state otherwise). Customer accesses, receives, transmits, stores, processes, or uses any content at its own risk. Customer is solely responsible for selecting and using the level of security protection needed for the content it is accessing, receiving, storing, processing or using, including without limitation Customer Data, individual health and financial content. Verizon is not responsible if the level of security protection Customer uses for any particular content is insufficient to prevent its unauthorized access or use, to comply with applicable law, or to otherwise fully protect the interests of Customer and others in that content.

**Use of Customer Data.** Verizon, Verizon Affiliates and their respective agents, may use, process and/or transfer Customer Data (including intra-group transfers and transfers to entities in countries that do not provide statutory protections for personal information): (a) in connection with provisioning of Services; (b) to incorporate Customer Data into databases controlled by Verizon, Verizon Affiliates or their respective agents for the purpose of providing Services; administration; provisioning; billing and reconciliation; verification of Customer identity, solvency and creditworthiness; maintenance, support and product development; fraud detection and prevention; sales, revenue and customer analysis and reporting; market and customer use analysis; and (c) to communicate to Customer regarding Services.

**Network Monitoring.** Transmissions passing through Verizon Facilities may be subject to legal intercept and monitoring activities by Verizon, its suppliers or local authorities in accordance with applicable local law requirements. To the extent consent or notification is required by Customer or end users under applicable data protection or other laws, Customer grants its consent under this Agreement and represents that it will have at all relevant times the necessary consents from all end users.

**Customer Consent.** Customer warrants that it has obtained or will obtain all legally required consents and permissions from relevant parties (including data subjects) for the use, processing and transfer of Customer Data as described in this clause.

**Customer Consent to Use of U.S. Customer Proprietary Network Information ("CPNI").** [Not Applicable to Arizona customers.] Verizon and its affiliates (the "Verizon Companies") may need Customer's permission to share information about Customer as described below. The Federal Communications Commission ("FCC") and various states require Verizon to protect certain information that is made available to it solely by virtue of Customer relationship with it. This information is known as Customer Proprietary Network Information ("CPNI"), and it includes information relating to the quantity, technical configuration, type, destination, location, and amount of use of Customer telecommunications services purchased (including specific calls Customer makes and receives) and related local and toll billing information. CPNI does not include subscriber lists or published information (listed or unlisted), such as Customer's name, telephone number and address; such information is not subject to the CPNI rules' use limitations. The Verizon Companies acknowledge that Customer has a right under federal and state law to protect the confidentiality of Customer's CPNI, and to direct the Verizon Companies not to use Customer's CPNI or to limit use and disclosure of and access to it, and the Verizon Companies have a duty to comply with the limitations Customer designates. By its signature on this Agreement, Customer grants the Verizon Companies permission, solely for the purpose of offering Customer current and future products and services available from the Verizon Companies and from the Vodafone Companies, to use, to permit access to and to disclose Company's CPNI among the Verizon Companies, to their agents, contractors, and partners, and to the Vodafone Companies. (The "Vodafone Companies" refers to Vodafone Group PLC, Vodafone Group Service Limited, their affiliates and partner networks).

**User Disclosures.** THE CUSTOMER UNDERSTANDS AND AGREES THAT IT: (1) HAS NO CONTRACTUAL RELATIONSHIP WITH THE UNDERLYING SERVICE PROVIDER OR ITS AFFILIATES OR CONTRACTORS; (2) IS NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN MOTOROLA SOLUTIONS INC. AND THE UNDERLYING CARRIER; AND (3) ACKNOWLEDGES AND AGREES THAT THE UNDERLYING CARRIER AND ITS AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO CUSTOMER AND CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR.

**LIMITATION OF LIABILITY.** NOTWITHSTANDING SECTION 11 OF THE AGREEMENT, NEITHER MOTOROLA NOR VERIZON AND THEIR AFFILIATES AND CONTRACTORS WILL HAVE ANY LIABILITY TO CUSTOMER OR ANY END USER:

- A) IF CHANGES IN THE SERVICE OR IN THE VERIZON NETWORK, SYSTEMS, OPERATIONS, EQUIPMENT, POLICIES OR PROCEDURES RENDER OBSOLETE OR OUTDATED ANY EQUIPMENT, HARDWARE, DEVICES OR SOFTWARE;
- B) FOR ANY CAUSES OF ACTION, LOSSES OR DAMAGES OF ANY KIND WHATSOEVER ARISING OUT OF (I) MISTAKES, OMISSIONS, INTERRUPTIONS, ERRORS, OR DEFECTS IN FURNISHING THE SERVICE, (II) FAILURES OR DEFECTS IN THE VERIZON NETWORK OR SYSTEMS,
- C) FOR ANY INJURY TO PERSONS OR PROPERTY, LOSSES (INCLUDING ANY LOSS OF BUSINESS), DAMAGES, CLAIMS OR DEMANDS OF ANY KIND OR NATURE, INCLUDING, BUT NOT LIMITED TO, USE OR INABILITY TO USE THE SERVICE, RELIANCE BY CUSTOMER ON ANY DATA PROVIDED OR OBTAINED THROUGH USE OF THE SERVICE, ANY INTERRUPTION, DEFECT, ERROR, VIRUS, OR DELAY IN OPERATION OR TRANSMISSION, ANY FAILURE TO TRANSMIT OR ANY LOSS OF DATA ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT. IN NO EVENT SHALL VERIZON, MOTOROLA, OR ITS VENDORS BE LIABLE FOR LOSSES, DAMAGES, CLAIMS OR EXPENSES OF ANY KIND ARISING OUT OF THE USE OR ATTEMPTED USE OF, OR THE INABILITY TO ACCESS, LIFE SUPPORT OR MONITORING SYSTEMS OR DEVICES, 911 OR E911, OR OTHER EMERGENCY NUMBERS OR SERVICES; OR INTENTIONAL MISCONDUCT. FOR THE AVOIDANCE OF DOUBT, UNDER NO CIRCUMSTANCES SHALL VERIZON'S OR MOTOROLA'S EXERCISE OF ANY RIGHTS SET FORTH IN THIS ADDENDUM BE DEEMED WILLFUL OR INTENTIONAL MISCONDUCT.

## Subscription Services Addendum

### Exhibit A: FirstNet and AT&T Service Terms

#### **Public Safety Entity (“Customer”) Responsibilities for access to and use of “First Net” Service as provided by AT&T**

**General.** The Customer is responsible for complying with AT&T Acceptable Use Policy found at [att.com/aup](http://att.com/aup) and applicable AT&T Service Guides found at [att.com/servicepublications](http://att.com/servicepublications).

**Privacy.** The Customer is responsible for complying with all applicable privacy laws. The Customer is responsible for obtaining consent from and giving notice to its Users regarding Motorola’s and AT&T’s collection and use of User information in connection with a Service. The Customer will only make accessible or provide Personal Data to Motorola and AT&T when it has the legal authority to do so.

**User Eligibility.** The Customer shall verify, or assist Motorola and AT&T in verifying, as stated below, the eligibility of its Users to use the Service. The Customer is required to verify and confirm that its Users are authorized and eligible to use Service. The Customer must perform periodic audits on a regular, but not less than once per year, basis to identify any individuals who are no longer eligible for Service. The Customer must produce such information as may be requested through AT&T by the FirstNet Authority and the United States Government to verify eligibility of its users.

**Limitations on the Service.** THE CUSTOMER ACKNOWLEDGES THAT SERVICE IS MADE AVAILABLE ONLY WITHIN THE OPERATING RANGE OF THE NETWORKS. SERVICE MAY BE TEMPORARILY REFUSED, INTERRUPTED, OR LIMITED BECAUSE OF: (A) FACILITIES LIMITATIONS; (B) TRANSMISSION LIMITATIONS CAUSED BY ATMOSPHERIC, TERRAIN, OTHER NATURAL OR ARTIFICIAL CONDITIONS ADVERSELY AFFECTING TRANSMISSION, WEAK BATTERIES, SYSTEM OVERCAPACITY, MOVEMENT OUTSIDE A SERVICE AREA OR GAPS IN COVERAGE IN A SERVICE AREA AND OTHER CAUSES REASONABLY OUTSIDE OF MOTOROLA OR AT&T’S CONTROL SUCH AS, BUT NOT LIMITED TO, INTENTIONAL OR NEGLIGENT ACTS OF THIRD PARTIES THAT DAMAGE OR IMPAIR THE NETWORK OR DISRUPT SERVICE; OR (C) EQUIPMENT MODIFICATIONS, UPGRADES, RELOCATIONS, REPAIRS, AND OTHER SIMILAR ACTIVITIES NECESSARY FOR THE PROPER OR IMPROVED OPERATION OF SERVICE.

**Limitations on Service of Carrier Partners.** CARRIER PARTNER NETWORKS ARE MADE AVAILABLE AS-IS AND MOTOROLA AND AT&T MAKES NO WARRANTIES OR REPRESENTATIONS AS TO THE AVAILABILITY OR QUALITY OF ROAMING SERVICE PROVIDED BY CARRIER PARTNERS, AND MOTOROLA AND AT&T WILL NOT BE LIABLE IN ANY CAPACITY FOR ANY ERRORS, OUTAGES, OR FAILURES OF CARRIER PARTNER NETWORKS. ROAMING ON CARRIER PARTNER NETWORKS OUTSIDE THE FIRSTNET SERVICE AREA (IF ANY) SHALL BE AVAILABLE AS DESCRIBED IN THE SERVICE GUIDE.

**User Disclosures.** THE CUSTOMER UNDERSTANDS AND AGREES THAT IT: (1) HAS NO CONTRACTUAL RELATIONSHIP WITH THE UNDERLYING WIRELESS SERVICE CARRIER; (2) IS NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN [CUSTOMER] AND THE UNDERLYING CARRIER; (3) THAT THE UNDERLYING CARRIER HAS NO LIABILITY OF ANY KIND TO [USER], WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE; AND (4) THAT DATA TRANSMISSIONS AND MESSAGES MAY BE DELAYED, DELETED OR NOT DELIVERED, AND 911 OR SIMILAR EMERGENCY CALLS MAY NOT BE COMPLETED

**Medical Devices (FDA and HIPAA Responsibilities).** The Customer shall be responsible for FDA compliance as a “distributor” of the Device to its users. Except as necessary to provide the Service to the Customer, The Customer shall not convey any protected health information (“PHI”) to AT&T, as that term is defined in the Health Insurance Portability and Accountability Act (“HIPAA”) and the Health Information Technology for Economic and Clinical Health (“HITECH”) Act regulations. Motorola and/or AT&T shall not function as the Customer’s business associate in rendering the Services; such Services will be limited to providing conduit or mere data transmission services to the Customer in accordance with guidance on the “conduit exception” under HIPAA. Each Party shall bear its own costs associated with regulatory compliance.

Audits. Customer may be subject to occasional audits by AT&T or its agents to verify compliance with this Exhibit A.