

SYSTEM PURCHASE

AGREEMENT

BETWEEN

**CITY OF NORMAN OKLAHOMA & NORMAN MUNICIPAL AUTHORITY
(Buyer)**

and

**HARRIS CORPORATION
COMMUNICATION SYSTEMS SEGMENT
(Seller)**

DATE: _____, 2017

SYSTEM PURCHASE AGREEMENT

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SYSTEM PURCHASE AGREEMENT

THIS SYSTEM PURCHASE AGREEMENT ("Agreement") is made and entered into this ___ day of ___, 2017 ("Effective Date"), by and between City of Norman Oklahoma & Norman Municipal Authority, (hereinafter referred to as "Buyer") and Harris Corporation, a Delaware corporation, acting through its Communication Systems Segment (hereinafter referred to as "Seller") together the ("Parties").

WITNESSETH:

WHEREAS, Buyer whose address 201 W. Gray Street, Norman, Oklahoma 73069 and issued a Request for Proposal entitled Request for Proposal 700/800 MHz Digital Public Safety Radio Network #1516-54 (collectively, the "RFP") requesting proposals to provide Buyer with a radio communications system and services as set forth in the RFP.

WHEREAS Seller, whose address is 221 Jefferson Ridge Parkway, Lynchburg, VA 24501, delivered a proposal (collectively, the "Seller's Proposal") to provide the radio communication system and services requested by Buyer in the RFP.

WHEREAS Buyer has selected Seller's Proposal and now desires to contract with Seller to provide Buyer with the radio communications system and services set forth in the Statement of Work attached to this Agreement as an exhibit.

WHEREAS Buyer and Seller desire to enter into this Agreement to set forth in writing their respective rights, duties and obligations hereunder.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, it is mutually agreed between the Buyer and Seller as follows:

SECTION 1. DEFINITIONS:

As used herein, the terms set forth below shall have meanings set forth below.

- A. "Acceptance" shall mean acceptance of the System as set forth in the Testing and Acceptance section of this Agreement.
- B. "Acceptance Date" shall mean the date the System is accepted or deemed accepted as set forth in the Testing and Acceptance section of this Agreement.
- C. "Acceptance Tests" shall mean the testing procedures attached to the Statement of Work and mutually agreed upon by Buyer and Seller to be performed to determine whether the System has met the acceptance criteria either set forth in the Statement of Work attached to this Agreement as an exhibit or as mutually agreed upon in writing by Buyer and Seller.
- D. "Certificate of Insurance" shall mean the certificate to be provided by Seller evidencing the insurance coverage of Seller.

- E. "Change Order" shall mean a written modification to the Total Agreement Price, Project Schedule or other Agreement terms which is signed by both Parties.
- F. "Detailed Design Documents" shall mean those documents deliverable by Seller to Buyer at the conclusion of the Detailed Design Review described in the subsection Detailed Design Review under the Project Management Planning section of this agreement.
- G. "Detailed Design Review" or "DDR" shall have the meaning given in the subsection Detailed Design Review under the Project Management Planning section of this agreement.
- H. "Documentation Deliverables" shall mean the standard commercial quality manuals to be furnished by the Seller to the Buyer pursuant to the terms set forth in the Statement of Work attached to this Agreement as an exhibit and this Agreement.
- I. "Effective Date of the Agreement" shall be the date on which the Agreement is signed by the last of the parties to sign the Agreement. The "Effective Date" shall be the date inserted on the first page of the Agreement.
- J. "Expiration Date" shall mean the date on which the Term of this Agreement shall end which shall be the end of the Warranty Period (as defined in the Warranty Section) except that some other sections of this Agreement may have a later end date for that section of the Agreement as specifically provided in those sections of this Agreement.
- K. "FX Agreement" shall have the meaning given in Section Software License – Software Maintenance Services of this agreement.
- L. "Hardware" shall mean, collectively, the Terminal Hardware and Infrastructure Hardware, as defined below.
- M. "Infrastructure Hardware" shall mean the equipment, goods, and materials to be supplied by Seller for the System infrastructure, as further described in the Statement of Work attached to this Agreement as an exhibit.
- N. "Project Kick-Off Meeting" shall have the meaning given in the Project Management and Planning section of this Agreement.
- O. "Project Manager" shall mean each respective Party's duly authorized representative designated to manage each Party's Project obligations.
- P. "Project Schedule" shall mean the schedule attached to the Statement of Work or otherwise mutually agreed upon by Seller and Buyer in writing for the delivery of the Hardware and Software and the performance of the Services described in the Statement of Work attached to this Agreement as an exhibit.
- Q. "Project Sites" shall mean those sites where any construction work is performed or any Infrastructure Hardware is installed under the terms of this Agreement. The term "Project Sites" will include all of the Tower Sites (as defined below).

- R. "Responsibility Matrix" shall mean the table included in the Statement of Work attached to this Agreement as an exhibit. which depicts the roles and responsibilities of Seller and Buyer set forth this Agreement.
- S. "RFP" shall mean Buyer's request for proposal as described in the recitals of this Agreement.
- T. "Services" or "Work" shall mean the services and work to be provided by Seller to Buyer included in the Statement of Work attached to this Agreement as an exhibit.
- U. "Software" shall mean the proprietary computer software of Seller as owned exclusively by Seller or Seller's suppliers, as appropriate, and as further defined in and licensed to Buyer pursuant to the terms of the Software License Agreement.
- V. "Software License Agreement" shall mean the System Software License Agreement set forth in an exhibit attached to this Agreement.
- W. "Statement of Work" shall mean the description of the work to be performed by Seller to deliver the Hardware, install the System and provide the Services, all as described in an exhibit attached to this Agreement.
- X. "System" shall mean the radio communications system comprised of the Hardware and Software to be furnished by Seller to Buyer pursuant to the terms set forth in the Statement of Work attached to this Agreement as an exhibit.
- Y. "Terminal Hardware" shall mean mobile units, portable units, control stations and related accessories to be provided by Seller as listed in the Statement of Work attached to this Agreement as an exhibit.
- Z. "Total Agreement Price" shall mean the price of the Hardware, the Software license and the Services to be furnished by Seller to Buyer pursuant to the terms set forth in the Statement of Work attached to this Agreement as an exhibit and this Agreement.
- AA. "Tower Sites" shall mean those sites where equipment will be installed on existing or new towers as included in the Contractor's Proposal and to be finalized in the Detailed Design Documents or subsequent Change Orders.

SECTION 2. SCOPE OF WORK:

- A. Seller shall furnish, deliver and install the Hardware and Software for the System and provide the Documentation Deliverables and Services in accordance with the terms of the Statement of Work, attached to this Agreement as an exhibit, the Project Schedule and this Agreement.
- B. The Detailed Design Documents, as described in the Project Management and Planning section of this Agreement and as amended from time to time in writing by the Parties, shall be incorporated into this Agreement after the Detailed Design Documents are approved by the Buyer and thereafter shall supersede any contrary provisions in the Statement of Work attached to this Agreement as an exhibit.

- C. Seller shall commence, carry on and complete its obligations under this Agreement with all deliberate speed in accordance with the dates set forth in the Project Schedule and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, Seller agrees to cooperate with the various departments, agencies, employees and officers of Buyer.
- D. Seller agrees to secure at Seller's own expense all personnel necessary to carry out Seller's obligations under this Agreement. Such personnel shall not be deemed to be employees of Buyer nor shall they or any of them have or be deemed to have any direct contractual relationship with Buyer. Seller expressly understands and agrees that the Seller is and shall in all respects be considered an independent contractor.

SECTION 3. PROJECT MANAGEMENT AND PLANNING:

- A. **Project Managers.** Seller shall designate a Project Manager who will lead the Seller' team for the System installation project and other Services and Work described in this Agreement (the "Project") and will serve as the Buyer's primary point-of-contact for Seller's project team and the official liaison between Seller's project team and Buyer. Buyer shall designate a Project Manager to function as the single point-of-contact and official liaison between Seller's Project Manager and the Buyer.
- B. **Project Completion Dates.** The Project completion dates are described in the schedule included in the Statement of Work, entitled "Project Schedule." The Project Schedule may only be modified by mutual written approval of the Parties or as otherwise provided in this Agreement.
- C. **Project Kick-off Meeting.** Promptly after the Effective Date of the Agreement, the Seller's Project Manager shall schedule a Project Kick-Off Meeting, the timing and location of which will be mutually agreed upon by Seller and Buyer. The objectives of this meeting include introduction of all project participants, review of the roles of the project participants, review of the overall project scope and objectives, review of the resource and scheduling requirements and review of current site status.
- D. **Site Visits.** All existing towers, shelters and associated equipment provided by or mandated by Buyer shall be satisfactory in all manners to accommodate the System proposed by the Seller. Following the Effective Date of the Agreement, the Buyer shall provide Seller with access to all Project Sites upon reasonable notice to allow Seller to thoroughly examine each Site and to perform the Detailed Design Review, to prepare a schedule of preparatory work required for each site and a timeline for completion of the preparatory work at each site.
- E. **Construction Management Services, Site Preparatory Work.** Seller shall perform the civil construction services set forth in the Statement of Work and the Responsibility Matrix including, but not limited to, the site improvement civil construction to be performed at the identified sites. Buyer shall identify and disclose to Seller any and all problems or conditions at all Project Sites of which Buyer is aware that may affect the Work to be performed by Seller under this Agreement.
- F. **Detailed Design Review.** The Detailed Design Review ("DDR") phase will commence after the Effective Date of the Agreement, and conclude at a mutually acceptable time to maintain adherence to the Project Schedule. During the DDR, Seller's Project Manager will meet with Buyer's project team on one or multiple occasions to review the system design, technical data, and site specific information to confirm and to refine the System and Tower Sites. At the conclusion of the DDR, Seller will provide

Buyer with the following documents (the “Detailed Design Documents”) for review and approval by Buyer:

- Final Siting Plans
- Project Schedule
- Engineered Site plans (sufficient for the Buyer to obtain required zoning approvals) and construction drawings for each site.
- Shelter Floor Plan Drawings
- Rack Elevation Drawings
- System Block and Level Diagrams
- Power and HVAC Loads
- Antenna Network Diagrams
- Site Frequency Plans (including spectrum analysis and intermodulation studies of existing and proposed frequencies at each site).
- TX Combiner Plan by Site
- Network Backhaul Plans
- Any other documents as mutually agreed upon by the parties

Buyer shall have fourteen (14) days to conduct its review of the above documents. Approval of Detailed Design Documents by the Buyer shall not be unreasonably withheld, conditioned or delayed.

- G. Project Schedule.** The Project Schedule for the Work is included in the Statement of Work, as an attachment entitled “Project Schedule.” Updates to the start dates and durations will be made as the information evolves and will be mutually agreed upon by both parties or updated as otherwise provided herein.
- H. System Implementation Communications.** Seller and Buyer shall jointly establish a plan that defines regular meetings, reporting structure, and other communications activities, including working sessions that may be needed throughout the term of this Agreement to plan sub-tasks, including at a minimum: (a) one or more DDR meetings to communicate the final engineering design; (b) formal monthly reports to Buyer’s Project Manager concerning work in progress and accomplishments; (c) periodic status meetings at which the parties’ Project Managers and other project participants will provide updates; (d) conference calls with Seller’s and Buyer’s project teams to discuss tasks, assign responsibility, and establish schedules; and (e) workshops or working sessions that may be needed throughout the Project to plan subtasks.
- I. Buyer Approvals.** Buyer will review and respond with reasonable promptness to all submittals or other items requiring its approval under this Agreement. For all such submittals or other items Buyer will provide the Seller with either; (i) written notification of Buyer’s approval, or (ii) a written notification of conditional approval subject to Seller providing prompt correction of any noted deficiency, or (iii) in the case of a submittal that does not meet the requirements of the Agreement, a written notification of Buyer’s disapproval. Buyer’s disapproval notification will be provided with

reasonable detail to sufficiently advise Seller of the basis on which the submittal was determined to be unacceptable. Buyer agrees that, except as otherwise provided, failure to provide approval, conditional approval or non-approval of a submittal for which its approval is required within fifteen (15) days of receipt of the submittal from the Seller shall constitute approval of the submittal. The parties agree that this section, Project Management and Planning, does not relate to the Testing and Acceptance procedures in the Testing and Acceptance section of this Agreement.

SECTION 4. OBLIGATIONS FOR SYSTEM IMPLEMENTATION:

The following subsections apply to the Work to be performed under the Agreement.

- A. **Project Management and Implementation Plan.** Buyer and Seller each agree to perform their respective tasks and obligations pertaining to permits and licenses, Project Site surveys, general Project Site-related responsibilities, general Hardware-related responsibilities, and Project Site-specific responsibilities as set forth in the Statement of Work. The Buyer's obligations set forth in the Statement of Work shall be performed by Buyer in a timely and proper fashion in accordance with the Project Schedule, or as otherwise agreed upon by Buyer and Seller, to allow Seller to timely perform its obligations under the Agreement.
- B. **Access.** Buyer shall provide access, at no cost to Seller, to all owned, leased, or licensed Project Sites at reasonable times, and with an escort (if required) at no charge, upon reasonable prior notification from Seller. Buyer shall ensure sufficient room, within reason, for construction vehicles used by Seller. Buyer shall issue temporary identification cards to Seller's personnel and its authorized subcontractors, if required, for access to any of the Project Sites.
- C. **Changes in Sites.** Any sites where Seller will operate and perform System installation under the terms of this Contract must be approved by Buyer, which approval shall not be unreasonably withheld, delayed or conditioned. Should Buyer direct an addition to, removal from, or modification of the list of sites as detailed in this Agreement that affects Seller's cost or schedule or System performance, including, but not limited to coverage, the parties agree that such change shall entitle Seller to a Change Order and each Party shall attempt, in good faith to fully negotiate and execute such change order prior to commencement of the Work at the changed site.
- D. **Preparatory Work on Sites.** Notwithstanding anything to the contrary contained in this Agreement, the parties agree that some Project Sites may require tower replacement or modifications, as well as related permitting and licensing for Work and/or obtaining physical real estate space. As stated in the Responsibility Matrix, Buyer shall be responsible for securing all necessary site zoning, site access, or other permits (including but not limited to easements, impact studies, planning commission approval, variances, etc.) necessary for the Work, whether required by federal, state, or local authorities, with Seller assisting by providing information and any required civil engineering drawings. Buyer shall also have the responsibility to secure by lease, purchase, easement or otherwise all rights and access to selected sites or additional real estate as may be required. Buyer also shall be responsible for paying all utility charges to the appropriate utility for providing utility services to the System installation areas. The Parties agree to mitigate the need for tower replacement or modification to the extent practical. If any unanticipated tower replacements become necessary, Seller is entitled to an extension of time for any impacted activities and/or an equitable adjustment to the Contract Price to maintain the Project Schedule.

- E. **Frequency FCC Licensing.** The Buyer will be responsible for obtaining all Federal Communications Commission frequency licenses for the System, with Seller providing technical assistance and information as set forth in the Statement of Work. Seller has no responsibility or obligation to secure licensed frequencies. In the event Buyer fails to obtain FCC licenses, and such failure has a material impact on the cost of Work performed by Seller under the Agreement and/or the schedule, the parties agree that Seller shall be entitled to an equitable adjustment to the Project Schedule, the Total Agreement Price, or both and that a Change Order shall be agreed to by the parties.
- F. **Federal Aviation Administration (FAA) Approvals.** Buyer will be responsible for obtaining all FAA approvals for newly-constructed or modified towers.
- G. **Contractor Licenses.** Seller will be responsible for obtaining all contractor licenses required for the performance of its duties and obligations.

SECTION 5. DELIVERY, TITLE AND RISK OF LOSS:

- A. **Infrastructure Hardware.** Seller shall ship the Infrastructure Hardware to Buyer at Buyer's expense on or before the dates set forth in the Project Schedule. Partial deliveries shall be permitted. Upon delivery to Buyer, title to each portion of the Hardware and all risk of loss or damage shall pass to Buyer. Infrastructure Hardware may be shipped directly to Buyer or to a mutually agreed upon staging or storage location. Buyer shall keep the Hardware fully insured for the total amount of all monies then due, or yet to become due, to Seller with respect to this Agreement.
- B. **Terminal Hardware.** Seller shall ship the Terminal Hardware to Buyer at Buyer's expense on or before the dates set forth in the Project Schedule. Partial deliveries shall be permitted. Upon delivery to Buyer, title to each portion of the Hardware and all risk of loss or damage shall pass to Buyer.
- C. If Buyer fails to take delivery of any of the Hardware, Seller may place such Hardware in storage at the place of manufacture or elsewhere. In such event: (1) Seller shall notify Buyer of the placement of any Hardware in storage; (2) Seller's delivery obligations shall be deemed fulfilled and title and all risk of loss or damage shall thereupon pass to Buyer; (3) any amounts otherwise payable to Seller upon delivery shall be payable upon presentation of Seller's invoices therefore; and (4) promptly upon submission of Seller's invoices therefore Buyer shall reimburse Seller for all expenses incurred by Seller such as preparation for and placement into storage, handling, storage, demurrage, inspection, preservation and insurance.

SECTION 6. PRICE:

The Total Agreement Price to be paid by Buyer to Seller is _____ Dollars (\$_____). The individual prices for the units of Hardware, the Software license and the Services to be performed are as set forth in the Price Schedule as an attachment to the Statement of Work.

SECTION 7. TAXES:

Per Oklahoma Statue, Title 68 Section 1350 et seq., Buyer is exempt from taxes under this agreement.

SECTION 8. CHANGES AND ADDITIONS:

- A. **Hardware Changes.** In the event of any change in the Hardware as a result of the imposition after the Effective Date of this Agreement of any requirements by any federal, state, or local government, an equitable adjustment in the price shall be made to reflect any added cost and expense of such change and the Agreement shall be modified in writing accordingly.

- B. **Buyer Requested Changes.** Buyer may request changes in or additions to the Work or in the time or place of performance of the Work under this Agreement. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the Work under this Agreement, Seller shall be entitled to an equitable adjustment, by change order, in the Total Agreement Price, the Project Schedule, or both. Any such adjustment in the Total Agreement Price or Project Schedule shall be mutually satisfactory to Buyer and Seller. Price increases and/or extensions of time shall not be binding upon either Party unless and until evidenced by a change order signed by the parties hereto.

- C. **Buyer Delays In Performance.** To the extent that Buyer fails to timely perform its obligations under the Responsibility Matrix or otherwise under this Agreement, and such failure has a material impact on the cost of Work performed by Seller under the Agreement and/or the schedule, the parties agree that Seller shall be entitled to an equitable adjustment to the Project Schedule, the Total Agreement Price, or both and that a Change Order shall be agreed to by the parties.

- D. **Concealed Conditions.** If, following Buyer's acceptance of the Detailed Design Documents, Seller encounters a concealed condition, of which it had no reason to be aware, at one or more Project Sites, then the Parties agree to work together to determine the best course of action and agree to negotiate in good faith a Change Order and an equitable adjustment to the Project Schedule and/or Total Agreement Price.

- E. **Product Discontinuance.** Subject to its obligation to fulfill its obligations set forth in the Agreement, Seller reserves the right to change or to discontinue any product covered by the Agreement provided that Seller agrees to make available to the Buyer a functionally equivalent replacement product equal to or better than the product discontinued.

- F. **Frequency Support and Frequency Changes.** Seller shall reasonably support Buyer in submitting the Buyer's frequency licensing applications to the Regional authorities and the Federal Communications Commission for this project. In the event that, after all commercially reasonable efforts and due diligence have been expended, the Buyer cannot obtain all of the necessary United States and Canada government approvals for the frequency plan as described in this Statement of Work and this Agreement, it shall be treated as an excusable delay event pursuant to the Excusable Delays section of this agreement for which an extension to the Project Schedule shall be granted, and Seller will diligently and expeditiously prepare and provide to Buyer a System re-design for its review and approval including all price and schedule changes. Notwithstanding anything to the contrary contained in the Agreement, the Parties agree that Seller may be entitled to an equitable adjustment to the Total Agreement Price and/or the Project Schedule for Seller's services on any such System re-design. In the event that Buyer and Seller cannot mutually agree on the System re-design, either party may then terminate the Agreement on thirty (30) days written notice to the other Party.

SECTION 9. PAYMENTS:

A. The Total Agreement Price for the Hardware, the Software license and the Services shall be paid by the Buyer to Seller as follows:

A.1. Infrastructure Hardware:

1. Fifteen percent (15%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due at the time of the signing of the Agreement by the Buyer and Seller.
2. Five percent (5%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due at the time of the first System design review meeting.
3. Thirty percent (30%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due at the time of Equipment Shipment. Buyer will give Seller a notice to proceed to begin factory staging and equipment shipment.
4. Twenty five percent (25%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due at the time of Infrastructure Hardware installation. Partial payments of the total Infrastructure Hardware amount due under this subparagraph shall be allowed on a per site basis and shall be calculated using the value of the Infrastructure Hardware shipped and delivered as a percentage of the total value of the Infrastructure Hardware to be shipped and delivered under the terms of this Agreement (exclusive of the mutually agreed upon value of any punchlist items at any site).
5. The Buyer shall have the right to inspect and confirm that the Infrastructure Hardware included in Seller's invoice has been installed at each site.
6. Ten percent (10%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due upon substantial completion of the Audio Quality Testing as defined in the Coverage Character Test Procedures.
7. Five percent (5%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due upon substantial completion of the Training.
8. Ten percent (10%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) plus any remaining unpaid portion of the Total Agreement Price for all Hardware, Software and Services to be provided under the terms of this Agreement (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due upon final Acceptance of the System.

A.2. Terminal Hardware:

1. One Hundred Percent (100%) of the purchase price of Terminal Hardware shall be invoiced upon shipment of unit on a per unit basis.

B. Payment Dates

The Payment(s) associated with the event(s) above shall be due thirty (30) days following the date of Seller's invoice.

C. Other Amounts

Any other amounts due Seller hereunder shall be due upon Buyer's receipt of Seller's invoice.

D. Late Payments

All amounts past due over thirty (30) days shall accrue interest from their due date at the rate of one and one-half percent (1-1/2%) per month (or such lesser rate as may be the maximum permissible rate under applicable law).

SECTION 10. SUBCONTRACTING:

Seller may subcontract any portion of Work to be performed by Seller hereunder provided that Seller shall be responsible for the performance and Work of any such subcontractors.

SECTION 11. EXCUSABLE DELAYS:

- A. Seller shall not be liable for delays in delivery or failure to perform due directly or indirectly to: (1) causes beyond Seller's reasonable control, (2) Acts of God, acts (including failure to act) of any governmental authority (de jure or de facto), wars (declared or undeclared), riots, revolutions, strikes or other labor disputes, fires, floods, sabotage, nuclear incidents, earthquakes, storms, epidemics, (3) Seller's inability to timely obtain necessary materials, items, components or services from suppliers who are affected by the foregoing circumstances, or (4) the failure of the Buyer to perform its obligations hereunder in a timely manner. The foregoing shall apply even though any of such causes exists at the time of signature of the Agreement by Seller or occurs after delays in Seller's performance of its obligations due to other reasons.
- B. In the event of any delay or failure excused by this Section Excusable Delays, Seller shall as soon as practical notify Buyer and shall at the same time, or at the earliest practical date after such notice, specify the revised delivery and performance dates. In the event of such delay, the time of delivery or of performance shall be extended for a reasonable time period to compensate for the time lost by Seller by reason of the delay.

SECTION 12. SELLER'S INSURANCE AND PERFORMANCE BOND:

- A. In order to protect itself and Buyer, its officers, boards, commissions, agencies, employees and representatives under the indemnity and other provisions of this Agreement, Seller shall obtain and at all times during the term of this Agreement keep in full force and effect comprehensive general liability

and auto liability insurance policies issued by a company or companies authorized to do business in the State of and licensed by the Insurance Department, with liability coverage provided for therein in the amounts of at least \$1,000,000.00 CSL (Combined Single Limits). Coverage afforded shall apply as primary. Within ten (10) days after execution of this Agreement, Seller shall furnish Buyer with a Certificate of Insurance listing Buyer as an additional insured. Seller shall maintain coverage for the duration of this Agreement and for two years following the completion of this Agreement. Seller shall furnish Buyer, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that Seller shall furnish the Buyer with a 30-day notice of cancellation or renewal. Seller shall furnish evidence of adequate Worker's Compensation Insurance.

- B. In case of any sublet of Work under this Agreement, Seller shall furnish evidence that each and every subcontractor has in force and effect insurance policies providing coverage substantially equal to that required of Seller.
- C. The parties do hereby expressly agree that Buyer, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this section Seller's Insurance, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by Buyer's Risk Manager taking into account the nature of the Work and other factors relevant to Buyer's exposure, if any, under this Agreement.
- D. Within ten (10) business days of execution of this Agreement, Seller shall provide Buyer with a surety bond for performance substantially in the form set forth in attachment to this Agreement, which bond shall terminate upon final System Acceptance as set forth in subsection A above.

SECTION 13. TESTING AND ACCEPTANCE:

- A. Seller shall notify Buyer that the System is ready for Acceptance Tests at least ten (10) days before commencement of the Acceptance Tests. Buyer and Seller shall jointly commence the Acceptance Tests on the date specified in Seller's notice (or other mutually agreeable date) and a representative of Seller and a representative of Buyer shall sign off on the form provided as part of the test procedure whether each item of the test was passed or failed. If the System does not fulfill the requirements of the Acceptance Tests, Seller shall correct the defects at no additional cost to Buyer as soon as practicable. Upon correction of the defects the Acceptance Tests for the applicable part of the System shall be repeated in accordance with the procedures set forth in this Section. Successful completion of the Acceptance Test is the sole criterion for technical system acceptance and the initiation of the warranty period. Final system acceptance shall occur when the Hardware and Software for the System, Documentation Deliverables and Services have been furnished, delivered, installed and the Acceptance Tests have been passed.
- B. Notwithstanding the acceptance testing of the System set forth in subsection A above, if Buyer commences use of any portion of the System for its intended purpose, other than for the express purpose of training or testing as mutually agreed upon by Seller and Buyer in writing, prior to System Acceptance, the applicable portion of the System shall be deemed accepted by Buyer. The final payment for the applicable portion of the System shall be due and payable upon such acceptance. The Warranty Period for the applicable portion of the System put into use together with the associated installation Services shall be deemed to have commenced concurrently with the use of the applicable

portion of the System for its intended purpose. The use of the applicable portion of the System for its intended purpose shall be deemed to have occurred when Buyer commences to use and rely primarily on the applicable portion of the System for its communications.

- C. As used in the Agreement, the term "Acceptance Date" shall mean and "Acceptance" of the System shall be deemed to occur upon the earlier of: (1) the date on which the System is deemed accepted pursuant to subsection (A) above, or (2) the date on which the System is deemed accepted pursuant to subsection (B) above.
- D. Buyer and Seller agree that in the process of completing the Acceptance Tests, most if not all of the Acceptance Tests can be successfully completed with only a minor number of punchlist items remaining to be completed. In such event, Buyer and Seller shall mutually (and reasonably) agree upon the punchlist items to be completed, the value of those items and that "conditional acceptance" of the System has occurred. For the purpose of initiating the Warranty Period, satisfying the Project Schedule requirements and the release of any retained funds (other than the value of the punchlist items) conditional acceptance shall constitute "Acceptance" of the specific portion or phase of the System. This conditional acceptance shall not, however, release Seller from its obligations to complete the remaining punchlist items by the dates set forth on the punchlist schedule.
- E. Terminal Hardware shall be deemed accepted upon Buyer's receipt of delivery at a Buyer-controlled facility, together with a bill of sale or other reasonably requested evidence of title.

SECTION 14. SOFTWARE LICENSE. Subject to the terms and conditions of the Software License Agreement attached hereto as an exhibit to this Agreement, Buyer is granted a license to use the Software only in conjunction with the System purchased under this Agreement. "Software" means the "Licensed Programs" as defined in the Software License Agreement.

SECTION 15. COVERAGE:

Seller's representations concerning the distance at which usable radio signals will be transmitted and received by Hardware supplied hereunder are set forth in the Statement of Work. Coverage for the System shall be measured as provided in the Testing and Acceptance section of this Agreement.

SECTION 16. WARRANTIES:

A. Hardware and Services

Seller warrants for the following periods of time from the Acceptance Date (hereinafter referred to as the "Warranty Period"), that the Hardware and installation Services furnished by Seller under this Agreement shall be free from defects in material and workmanship and shall conform to the Agreement specifications. Any Services provided during the Warranty Period are set forth in the Statement of Work. Any and all claims for breach of this warranty are conclusively deemed waived unless made within the Warranty Period. The warranty period for additional Hardware purchased by Buyer from Seller after System Acceptance shall be warranted for the following periods of time from the date the Hardware is delivered to Buyer:

1. for mobile and portable radios ("Subscriber Units"), twenty-four (24) months.
 2. for Unity® model Subscriber Units, thirty-six (36) months.
 3. for all other Hardware, one (1) year.
- B.** For purposes of this Warranty the batteries supplied by Seller shall be deemed defective if: (1) the battery capacity is less than 80% of rated capacity, or (2) the battery develops leakage. Replacement batteries shall be warranted only for the remaining unexpired portion of the Warranty Period. This warranty becomes void if: (1) the battery has been subjected to any kind of misuse, detrimental exposure, or has been involved in an accident, or (2) the battery is used in equipment or service other than the Hardware for which it is specified.
- C.** During the Warranty Period if any component of the Hardware or portion of the installation Services fails to meet the foregoing warranties, Seller's sole obligation and Buyer's exclusive remedy under this warranty shall be the correction by Seller of the failure at Seller's option: (1) by repairing any defective component of the Hardware, or (2) by furnishing any necessary repaired or replacement parts, or (3) by the redoing of the faulty installation. Any such failure, or the repair or replacement of the defective component or the redoing of any installation, shall not extend the Warranty Period. Where such failure cannot be corrected by Seller's reasonable efforts, the parties will negotiate an equitable adjustment in price. Seller will be responsible for all charges incurred in returning defective parts to Seller's plant and shipping repaired or replacement parts to Buyer. All warranty labor must be performed by an authorized service group approved by Seller either at its place of business, for mobile or portable equipment, or at the Buyer's location for fixed location equipment should Seller determine that it is not feasible to return the fixed location equipment to Seller's authorized service group.
- D.** Any additional purchases of equipment, including radios, and installation services which may be purchased by Buyer and delivered or performed by Seller after System Acceptance, shall be warranted on the same terms, limitations, and exclusions as are set forth herein, except that the warranty on the equipment and installation services shall be for a period of two (2) years for additional Terminal Hardware items from the date of delivery of that item of equipment, one (1) year for additional Infrastructure Hardware items from the date of delivery of that item of equipment, and one (1) year from the date of completion of that installation service.
- E.** Seller's obligations shall not apply to: (1) Hardware or components thereof which are normally consumed in operation, or, or (2) defects which are the result of improper storage, use, or installation performed by other than Seller, maintenance performed by other than Seller, or repair performed by other than Seller, or (3) Hardware which has been subjected to any other kind of misuse or detrimental exposure or has been involved in an accident, or (4) Hardware or installations altered or repaired by any party other than Seller without Seller's prior written consent.
- F.** **Coverage Warranty.** Notwithstanding the other provisions of this Section Warranties, Seller's only Warranty as to radio coverage is that the System, prior to Acceptance, shall have successfully passed the coverage tests in the Acceptance Test Plan.
- G.** **Software**
- The warranty for the Software is set forth in the Software License Agreement.

- H. THE WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION AND IN THE SOFTWARE LICENSE AGREEMENT CONSTITUTE THE ONLY WARRANTIES WITH RESPECT TO THE HARDWARE, SOFTWARE AND SERVICES AND THE BUYER'S EXCLUSIVE REMEDIES IN THE EVENT SUCH WARRANTIES ARE BREACHED. THEY ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, OR STATUTORY INCLUDING, WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL SELLER BE LIABLE FOR SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES.

SECTION 17. INTERFERENCE:

Radio system coverage and performance are subject to degradation due to anomalous propagation and interference beyond the reasonable control of Seller. Seller cannot be responsible for degradation or disruption of Service caused by operation of other radio systems or by natural phenomena or other interference over which the Seller has no reasonable control. In the event of a case of degradation due to interference by an outside party, Seller will provide engineering support to Buyer at Buyer's expense to support Buyer's efforts in resolving the interference issue with the outside party.

SECTION 18. INDEMNIFICATION:

- A. Seller shall be responsible for and agrees to indemnify, hold harmless and defend the Buyer and its boards, commissions, agencies, officers and employees from and against all liability, losses, damages, costs or expenses which the Buyer and its boards, commissions, agencies and employees may sustain, incur or be required to pay by reason of third party claims, demands and causes of action for damages resulting from personal injuries, loss of life or damage to tangible property to the extent resulting from the willful misconduct or negligent acts or omissions of Seller, Seller's officers, agents, employees, or subcontractors. Buyer agrees to notify Seller in writing as soon as practical of any third party claim, demand or cause of action for which Buyer will request indemnification from Seller. Buyer will provide Seller with the necessary information and assistance to defend or settle such claim, demand or cause of action. The obligations of Seller under this paragraph shall survive the expiration or termination of this Agreement.
- B. Buyer shall be responsible for and agrees to indemnify, hold harmless and defend the Seller and its board of directors, officers and employees from and against all liability, losses, damages, costs or expenses which the Seller and its board of directors, officers and employees may sustain, incur or be required to pay by reason of third party claims, demands and causes of action for damages resulting from personal injuries, loss of life or damage to tangible property to the extent resulting from the willful misconduct or negligent acts or omissions of the Buyer and its boards, commissions, agencies, employees and subcontractors. Seller agrees to notify Buyer in writing as soon as practical of any third party claim, demand or cause of action for which Seller will request indemnification from Buyer. Seller will provide Buyer with the necessary information and assistance to defend or settle such claim, demand or cause of action. The obligations of Buyer under this paragraph shall survive the expiration or termination of this Agreement.

SECTION 19. PATENTS:

- A. Seller warrants that the System furnished hereunder shall be delivered free of any rightful claim of any third party for infringement of any United States patent or copyright. If Buyer notifies Seller promptly of the receipt of any claim that the System infringes a United States patent or copyright and gives Seller information, assistance and exclusive authority to settle and defend such claim, Seller at its own expense shall defend, or may settle, any suit or proceeding against Buyer so far as based on a claimed infringement which breaches this warranty. If, in any such suit arising from such claim, the continued use of the System for the purpose intended is enjoined by any court of competent jurisdiction, Seller shall, at its expense and option, either: (1) procure for Buyer the right to continue using the System, or (2) modify the System so that it becomes non-infringing, or (3) replace the System or portions thereof so that it becomes non-infringing, or (4) remove the System and refund the purchase price (less reasonable depreciation for use). The foregoing states the entire liability of Seller for patent or copyright infringement by the System and is subject to any limitation of total liability set forth in this Agreement.
- B. The preceding subsection (A) shall not apply to: (1) any portion of the System which is manufactured to Buyer's design, or (2) the use of the System in conjunction with any other apparatus or material not supplied by Seller to the extent that such conjoined use causes the alleged infringement. As to any portion of the System or use described in the preceding sentence, Seller assumes no liability whatsoever for patent infringement.
- C. THE PATENT AND COPYRIGHT WARRANTY AND INDEMNITY OBLIGATIONS RECITED ABOVE ARE IN LIEU OF ALL OTHER PATENT AND COPYRIGHT WARRANTIES AND INDEMNITIES WHATSOEVER, WHETHER ORAL, WRITTEN, EXPRESS, IMPLIED OR STATUTORY.

SECTION 20. LIMITATION OF LIABILITY:

- A. Except for Seller's liability to third parties for its willful misconduct or negligent acts or omissions as more particularly described in the Indemnification Section of this Agreement, the total liability of Seller, including its subcontractors or suppliers, for all claims of any kind for any loss or damage, whether in contract, warranty, tort (including negligence or infringement), strict liability or otherwise, arising out of, connected with, or resulting from the performance or non-performance of this Agreement or from the manufacture, sale, delivery, installation, technical direction of installation, resale, repair, replacement, licensing or use of any Hardware, Software or the furnishing of any Service, shall not exceed the amount paid by Buyer allocable to the particular item of Hardware, Software or Service which gives rise to the claim. Except as to title, any such liability shall terminate upon the expiration of the Warranty Period.
- B. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF AGREEMENT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR INFRINGEMENT), STRICT LIABILITY OR OTHERWISE, SHALL SELLER, OR ITS SUBCONTRACTORS OR SUPPLIERS, BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR EXEMPLARY DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES, LOSS OF USE OF THE HARDWARE OR ANY OTHER EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES, SERVICES OR DOWNTIME COSTS.

- C. Any action for any claim of any kind for any loss or damages arising out of, connected with, or resulting from the performance, non-performance or breach of the Agreement, or from the manufacture, sale, delivery, installation, technical direction of installation, resale, repair, replacement, licensing or use of any Hardware, Software or the furnishing of any Services, shall be commenced within one (1) year after the cause of action accrued or it shall be deemed waived or barred.
- D. The provisions of this Section, LIMITATION OF LIABILITY, shall apply notwithstanding any other provisions of this Agreement or any other agreement.
- E. The provisions of this Section, LIMITATION OF LIABILITY, shall survive the expiration or termination of this Agreement.

SECTION 21. REMEDIES:

- A. In the event of a material breach of this Agreement by Seller which shall continue for one hundred twenty (120) or more days after written notice of such breach (including a reasonably detailed statement of the nature of such breach) shall have been given to Seller by Buyer, Buyer shall be entitled to avail itself cumulatively of any and all remedies available at law or in equity (provided such remedies are not otherwise limited under the terms of this Agreement) and either: (1) suspend performance of its payment obligations under the Agreement for as long as the breach continues uncorrected; or (2) terminate this Agreement by written notice to Seller if the breach remains uncorrected. The following shall constitute material breaches of this Agreement:
 - 1. violation by Seller of any State, Federal or local law, or failure by Seller to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
 - 2. failure by Seller to carry applicable licenses or certifications as required by law.
 - 3. failure of Seller to comply with reporting requirements contained herein.
 - 4. inability of Seller to perform the Work provided for herein.
- B. In the event of: (1) any failure by Buyer for thirty (30) or more days to make any payment when due, or (2) any other material breach of this Agreement by Buyer which shall continue for one hundred twenty (120) or more days after written notice of such breach (including a reasonably detailed statement of the nature of such breach) shall have been given to Buyer by Seller, Seller shall be entitled to avail itself cumulatively of any and all remedies available at law or in equity (provided such remedies are not otherwise limited under the terms of this Agreement) and either: (1) suspend performance of its obligations under this Agreement for as long as the breach remains uncorrected; or (2) terminate this Agreement by written notice to Buyer if the breach remains uncorrected.
- C. In the event Buyer terminates this Agreement as provided herein, all finished and unfinished Hardware and Documentation Deliverables produced or made by Seller for Buyer under this Agreement shall become the property of Buyer and Seller shall be entitled to receive compensation in accordance with the terms of this Agreement for any such Hardware and Documentation Deliverables. Notwithstanding the above, Seller shall not be relieved of liability to Buyer for damages sustained by Buyer by virtue of any breach of this Agreement by Seller described in subsection A above and, after providing Seller

with written notice of breach as set forth in subsection A, Buyer may withhold any payments to Seller for the purpose of set-off of any damages, as agreed upon or finally adjudicated, against such payment.

SECTION 22. CONFIDENTIALITY:

- A. During the term of this Agreement, it is anticipated that one party (hereafter the "Disclosing Party") may disclose to the other party (hereafter the "Receiving Party") information which the Disclosing Party considers proprietary and confidential. Accordingly, with respect to any specification, drawings, sketches, models, samples, tools, technical information, confidential business information or data, in written or other tangible form which: (1) has been designated in writing by the Disclosing Party as confidential or proprietary, or (2) is of the type that the Receiving Party customarily treats as confidential or proprietary, and which is furnished by the Disclosing Party to the Receiving party in contemplation of or under this Agreement (hereinafter "Information"), the Receiving Party shall treat such Information, for a period of five (5) years after the Effective Date of this Agreement, as confidential information with the same degree of care as the Receiving Party affords to confidential information of its own of a similar nature and shall not reproduce any such Information, in whole or in part, except as specifically authorized in writing by the Disclosing Party.
- B. The provisions of the preceding subsection shall not apply to any Information which:
1. is or shall become publicly available without breach of this Section Confidentiality, on the part of the Receiving Party;
 2. is already known by the Receiving Party prior to receipt from the Disclosing Party;
 3. is independently developed by the Receiving Party;
 4. is rightfully obtained by the Receiving Party from third parties without restriction; or
 5. is required to be disclosed by appropriate governmental or judicial order provided that Receiving Party gives Disclosing Party prior written notice of such order and assists Disclosing Party in taking reasonable actions to restrict such order.
- C. The provisions of this Section, Confidentiality, shall survive the expiration or termination of this Agreement.
- D. The confidentiality obligations of this Section, Confidentiality, shall not apply to Software, the confidentiality and other rights and obligations with respect to which are set forth in the Software License Agreement.

SECTION 23. COMPLIANCE:

Seller agrees to comply with all federal, state and local laws, ordinances, codes, rules and regulations in effect as of the Effective Date of this Agreement that may in any way affect the Work by Seller hereunder. Any Hardware or Software furnished by Seller under this Agreement shall comply in all material respects with federal, state and local laws and regulations applicable to the manufacture, packing, sale and shipment of such Hardware or Software as of the Effective Date of this Agreement and shall comply with any amendments thereto which may have come into effect prior to the time such Hardware or Software are delivered provided

that the price and, if necessary, delivery of such Hardware or Software shall be equitably adjusted to compensate Seller for the effect of compliance with any such amendments.

SECTION 24. NOTICES:

Notices and other communications between the parties shall be transmitted in writing by certified mail or nationally recognized overnight courier service to the parties at the addresses set forth below and shall be deemed effective upon receipt by the receiving party. Either party may change its address by giving notice in writing thereof to the other party.

IF TO BUYER:

Attn: _____

WITH A COPY TO:

Attn: _____

IF TO SELLER:

Harris Corporation
221 Jefferson Ridge Parkway
Lynchburg, Virginia 24501
Attn: Scott Tangeman

WITH A COPY TO:

Harris Corporation
221 Jefferson Ridge Parkway
Lynchburg, Virginia 24501
Attn: Thomas Clair

SECTION 25. ORDER OF PRECEDENCE:

The Statement of Work and the following Exhibits are expressly incorporated herein by reference and, together with this Agreement, constitute the Agreement Documents. In the event of a conflict among or between the Agreement Documents, the documents shall control in the order of precedence set forth below:

1. Amendments to this Agreement
2. This Agreement (not including the Exhibits and documents listed below)
3. Detailed Design Documents
4. **Exhibit A** - Statement of Work, with Attachments
5. **Exhibit B** - Software License Agreement

SECTION 26. TERM:

The term of this Agreement shall commence upon the Effective Date of this Agreement and shall run through the Expiration Date. The term of the Software license is set forth in the Software License Agreement.

SECTION 27. ENTIRE AGREEMENT:

The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof.

SECTION 28. AMENDMENT:

The parties expressly agree that this Agreement shall not be amended in any fashion except in a writing(s) executed by authorized representatives of both parties.

SECTION 29. SEVERABILITY:

The invalidity, in whole or in part, of any Section or part of any Section of this Agreement shall not affect the validity of the remainder of such Section or the Agreement.

SECTION 30. WAIVER:

No term of this Agreement may be waived except in a writing signed by the party waiving enforcement. No term of this Agreement shall be deemed to be waived by reason of any failure to previously enforce such term. In no event shall the making of any payment required by this Agreement constitute or be construed as a waiver by Buyer of any breach of the covenants of this Agreement or a waiver of any default of Seller and the making of any such payment by Buyer while any such default or breach shall exist shall in no way impair or prejudice the right of Buyer with respect to recovery of damages or other remedy as a result of such breach or default.

SECTION 31. HEADINGS:

Section headings are inserted for convenience only and shall not be used in any way to construe the meaning of terms used in this Agreement.

SECTION 32. GOVERNING LAW:

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, the laws of the State of Oklahoma without regard to its conflict of laws provisions shall be controlling. Venue for any legal proceedings shall be in any state or federal court in the State of Oklahoma.

SECTION 33. ASSIGNMENT; SUCCESSORS AND ASSIGNS:

This Agreement shall not be assigned nor any interest or obligation in this Agreement transferred by either Party without the written consent of the other Party, which shall not be unreasonably withheld or delayed. Notwithstanding the above, Seller may assign this Agreement, without consent, (a) in whole or in part, to an affiliate, subsidiary, or authorized reseller or (b) in the event of a change of controlling ownership interest (either directly or indirectly) in Seller or in the event of merger, recapitalization, consolidation, other business combination or sale of all or substantially all of the assets of Seller. In addition, Seller may also assign or transfer, without consent, claims for money due or to become due Seller from Buyer under this Agreement to a bank, trust company or other financial institution if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to Seller shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this Agreement. Seller shall promptly provide to Buyer notice of any such permitted assignment or transfer without consent.

SECTION 34. LIQUIDATED DAMAGES:

Seller agrees to be subject to liquidated damages for failure to achieve System Acceptance by the date set forth in this Agreement, (described in Exhibit 4, Project Schedule, Statement of Work), and further agrees that such liquidated damages are intended to be compensatory and do not constitute a penalty for late delivery. The parties acknowledge and agree that the harm suffered by reason of a failure to achieve System Acceptance by the date set forth in this Agreement would be difficult or impossible to calculate with any certainty and that the liquidated damages set forth below represent a reasonable estimate of that harm. The liquidated damages set forth below are specifically applicable to a failure to Achieve System Acceptance by the date set forth in this Agreement only. Buyer's rights and remedies for other than late delivery are set forth in this Agreement and as are otherwise available at law or equity. If Seller fails to meet the schedule date for System Acceptance set forth in this Agreement, Seller shall immediately pay to Buyer the following liquidated damages:

- i. Damages amounts:
 - a. 0-30 calendar days late \$ 1000.00 / day
 - b. 31-70 calendar days late \$ 1500.00 / day
 - c. Greater than 70 days \$ 2000.00 / day
- ii. In no event shall the maximum amount of liquidated damages paid by Seller for late deliveries under this Agreement exceed \$100,000.00.
- iii. Notwithstanding the above, should the Project Schedule change due to a Change Order under this Agreement, the Project Scheduled date for System Acceptance may be extended to meet project requirements as mutually agreed by both parties.
- iv. Seller shall have no liability for liquidated damages for any delay in achieving System Acceptance, if, after the System Acceptance Date, the delay is attributable to reasons other than Seller's delay, including but not limited to delay by Buyer or Buyer's other contractors, FORCE MAJEURE EVENTS OR OTHER EVENTS BEYOND SELLER'S REASONABLE CONTROL.

SECTION 35. COOPERATIVE PURCHASING:

A. Purchases by Other Public Entities: This Agreement may be used by other public bodies to purchase subscriber equipment at the prices set forth below and in accordance with the terms, including applicable warranties of this Agreement unless otherwise specified herein. This pricing cannot be combined with any other Harris promotional offers. Such public bodies shall place their own order(s) directly with Seller, and Seller shall deal directly with any public body Buyer approves to use the Agreement. The terms and conditions of this Agreement shall govern purchases by other public bodies unless they and the Seller agree to execute separate contracts. With the approval of the Seller, any public body using this Agreement may add terms and conditions required by statute, ordinances, or regulations. To the extent permitted by law, the parties may agree to additional or modified terms and conditions unique to the public body or as required by the circumstances surrounding the purchase. Buyer its officials and employees are not responsible for placement of orders, invoicing, payments, contractual disputes, or any other transactions between the Seller and any other public bodies. In no event shall Buyer, its officials or employees be responsible for any costs, damages or injury resulting to any party from use of a Buyer contract. If, when preparing such a contract, the additional terms and conditions of a public body seeking to purchase pursuant to cooperative procurement are unacceptable to the Seller, the Seller may withdraw its consent to extension of the contract to that particular body. Buyer, assumes no

responsibility for any notification of the availability of this Agreement for use by other public bodies, but the Seller may carry out such notification.

B. Pricing For Purchases by Other Public Entities

1. **Discount off Seller's List Price – Harris Subscriber Equipment 30%**
Orders for Harris Subscriber Equipment will be placed through Harris Sales Representatives.
2. **Discount for Non-Harris Equipment**
Seller will provide quoted pricing to Public Entities for any OEM parts or accessories upon request.

[End of Text This Page]

IN WITNESS WHEREOF, Buyer and Seller have executed this Agreement.

BUYER
CITY OF NORMAN OKLAHOMA &
NORMAN MUNICIPAL AUTHORITY

SELLER
HARRIS CORPORATION ACTING
THROUGH ITS COMMUNICATION
SYSTEMS SEGMENT

By: _____

By: Thomas Clair

Name: Lynne Miller

Name: Thomas Clair

Title: Mayor/Chairman

Title: Contracts Manager

Date: _____

Date: 2/21/2017

Witness:

Witness:

By: _____

By: Andrew Wilson

Name: Brenda Hall

Name: Andrew Wilson

Title: City Clerk/Secretary

Title: Contracts Manager

Date: _____

Date: 2/21/2017

APPROVED BY CITY OF NORMAN LEGAL DEPARTMENT
BY _____ DATE _____

LIST OF EXHIBITS [to be tailored, as applicable]

- Exhibit A - STATEMENT OF WORK (with Attachments)
- Exhibit B - SOFTWARE LICENSE AGREEMENT
- Exhibit C - FORM OR SURETY BOND FOR PERFORMANCE

EXHIBIT A

STATEMENT OF WORK

TABLE OF CONTENTS

Attachments to Exhibit A

1. System Description
2. System Drawings
3. Responsibilities Matrix
4. Project Schedule
5. Equipment List
6. Price Schedule
7. Coverage Maps
8. Functional Acceptance Test Procedures
9. Coverage Acceptance Test Procedures
10. Project Management Plan
11. Warranty and Maintenance
12. Training Program

EXHIBIT B

SOFTWARE LICENSE AGREEMENT

This License Agreement ("License Agreement") is made upon the Effective Date of the Primary Agreement (the "Effective Date") between Harris Corporation, a Delaware Corporation, acting through its Communication Systems Segment, ("LICENSOR") with offices at 221 Jefferson Ridge Parkway, Lynchburg, VA 24501 and City of Norman Oklahoma & Norman Municipal Authority ("LICENSEE"). LICENSOR is the owner of certain wireless communications software programs and LICENSEE desires to obtain a license from LICENSOR to use such wireless communications programs.

1.0 Definitions.

1.1 "Designated Systems": Means the Harris system(s), products, and Designated Terminals purchased by Buyer and identified in the Primary Agreement for which the Licensed Programs and documentation are intended to be used.

1.2 "Designated Terminals": Means the LICENSOR's Terminals purchased by LICENSEE.

1.3 "Licensed Programs": The term Licensed Programs shall mean the wireless communications computer programs in software or firmware supplied under this License Agreement by LICENSOR in binary object code format to the LICENSEE (stand alone or in conjunction with the purchase of a LICENSOR wireless communications system.) Licensed Programs shall also include all other material related to the Licensed Programs supplied by LICENSOR to LICENSEE hereunder, and which may be in machine readable or printed form, including but not limited to user documentation and/or manuals.

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

1.5 "Open Source Software License": The terms or conditions under which the Open Source Software is licensed.

1.6 "Primary Agreement": The agreement to which this exhibit is attached.

1.7 "Third Party Software Products": Shall mean programs that are not developed by LICENSOR which are licensed / purchased by LICENSOR for inclusion in its products.

2.0 License Grant for Licensed Programs.

2.1 Subject to the Contract and the performance by Licensee of its obligations hereunder, LICENSOR hereby grants to Licensee, and Licensee hereby accepts from LICENSOR, (a) a personal, non-transferable, non-exclusive, perpetual, limited license to use the Licensed Programs in object code format only and (b) install and execute such Licensed Programs on Licensee's equipment and (c) are to be used for internal business purposes only. All licensed programs under this License Agreement shall only be used in conjunction with the Designated System. This license does not transfer any right, title, or interest in the Licensed Programs. The license granted authorizes Licensee to use the Licensed Programs in object code format and does not grant any rights to source code.

2.2 LICENSEE will not reproduce, modify, or make derivative works of the Licensed Programs, except that LICENSEE may make one archival, and one inactive backup, copy of the Licensed Programs. In addition, LICENSEE, its agents, consultants and/or its subcontractors will not attempt to reverse engineer, decompile, or reverse-compile any software contained in the Licensed Programs and any attempt to do so shall be a material breach of this License Agreement. With respect to the Licensed Programs, LICENSEE will not alter, deface, discard, or erase any media, documentation, or LICENSOR or Third Party Licensor's trademarks or proprietary rights notices.

2.3 Third Party Software Products may be subject to additional license terms, which, if applicable, are set out in Product Specific License Terms delivered with each product. To the extent applicable, LICENSEE shall comply with any additional Third Party Software Product license terms.

2.4 If the Software licensed under this License 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 License Agreement and, to the extent applicable, LICENSEE will comply with the Open Source Software terms License terms. If there is a conflict between the terms and conditions of this License Agreement and the terms and conditions of the Open Source Software Licenses governing Licensee's use of the Open Source Software, the terms and conditions of the license grant of the applicable Open Source Software Licenses will take precedence over the license grants in this License Agreement. If requested by Licensee, Harris will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this License Agreement; (ii) identify the Open Source Software and provide Licensee a copy of the applicable Open Source Software License (or specify where that license may be found).

3.0 Protection and Security of Licensed Programs.

LICENSEE acknowledges and agrees that the Licensed Programs and any materials and/or documentation related thereto, and any portion thereof, supplied by LICENSOR hereunder are proprietary and confidential to LICENSOR or applicable third party licensors and are a valuable commercial asset of LICENSOR or their third party owners. LICENSEE also acknowledges and agrees that LICENSOR and/or the third party licensors have and shall retain all proprietary rights in their respective portions of the Licensed Programs and any materials and/or documentation related thereto. LICENSEE (i) shall respect such proprietary rights, (ii) shall protect LICENSOR and any third party licensor's proprietary rights at least to the extent that it protects its own proprietary information, or such (iii) shall not use the Licensed Programs nor any materials or documentation related thereto except for the purposes for which they are being made available as set forth in this License Agreement and (iv) shall not reproduce, print, disclose, or otherwise make said Licensed Programs or materials and/or documentation related thereto available to any third party, in whole or in part, in whatever form, except as permitted in the terms of this License Agreement.

4.0 Warranty

Seller warrants, for the greater of a period of one year or, if a longer warranty period for the product containing the Licensed Program is set forth in a Primary Agreement, the longer warranty period shall apply commencing with the date of Licensee's acceptance of their Designated System, that any Licensed Program furnished to Licensee under this License Agreement shall be capable of successfully operating on the Designated System in accordance with the logic defined in the operator's manuals when the system is supplied with correct input data. If, on the basis of evidence submitted to LICENSOR within the term of this warranty, it is shown that any Licensed Program does not meet this warranty, LICENSOR will, at its option, either correct the defect or error in the Licensed Program, free of charge, or make available to Licensee a substitute program. The foregoing warranty is exclusive and in lieu of all other warranties whether written, oral, implied or statutory. **NO IMPLIED OR STATUTORY WARRANTY OF**

MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, SHALL APPLY, ALL OF WHICH ARE EXPRESSLY DISCLAIMED BY LICENSOR.

Licensed Programs which have been developed or are owned by a third party licensor and which are sublicensed by LICENSOR to LICENSEE hereunder shall be warranted to LICENSEE only to the extent that the licensor of such sublicensed programs warrants such sublicensed programs to LICENSOR.

In the event that the Licensed Programs do not conform to the representation above, LICENSEE's sole remedy and LICENSOR's sole and exclusive liability shall be to replace such Licensed Programs with the then current released version of such Licensed Programs.

5.0 Limitation of Liability.

5.1 THE LIMITATION OF LIABILITY PROVISION IN THE PRIMARY AGREEMENT SHALL GOVERN THIS LICENSE AGREEMENT AND SECTION 5.2 SHALL NOT APPLY. IF THERE IS NO LIMITATION OF LIABILITY PROVISION IN THE PRIMARY AGREEMENT, SECTION 5.2 SHALL APPLY.

5.2 IN NO EVENT WILL LICENSOR AND/OR ANY THIRD PARTY LICENSOR(S) BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO ANY DAMAGES RESULTING FROM LOSS OF USE, LOSS OF DATA, LOSS OF PROFITS OR LOSS OF BUSINESS, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY OR FORM OF ACTION, EVEN IF LICENSOR AND/OR ITS THIRD PARTY LICENSOR(S) HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LICENSOR'S AND THIRD PARTY LICENSORS', LIABILITY IN CONTRACT, TORT OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH THIS LICENSE AGREEMENT OR THE USE OF THE LICENSED PROGRAMS SHALL NOT EXCEED THE TOTAL COMPENSATION PAID TO LICENSOR BY LICENSEE FOR THE PRODUCTS CONTAINING THE LICENSED PROGRAMS.

6.0 Term and Termination.

6.1 LICENSOR reserves the right, in addition to any other remedies it may retain in this License Agreement or may be entitled to in law or equity (including immediate injunctive relief and repossession of all non-embedded Licensed Programs and documentation), to terminate this License Agreement at any time prior to the expiration of any Term in the event LICENSEE breaches any material term or condition or fails to perform or observe any obligations or covenants of this License Agreement and such failure and/or breach is not remedied within thirty (30) days of written notice from LICENSOR.

6.2 Within thirty (30) days after termination or expiration of this License Agreement, LICENSEE will return to LICENSOR all confidential material including but not limited to all copies, partial copies, and/or modified copies (if any) of Licensed Programs and any equipment owned by LICENSOR in LICENSEE's possession.

7.0 Assignment/Transfer.

This License Agreement, the licenses granted hereunder and the Licensed Programs provided to LICENSEE under this License Agreement may not be assigned, sub-licensed, or otherwise transferred by LICENSEE to any third party without LICENSOR's prior written consent, except that this license may be assigned if the Products containing the Licensed Programs are transferred but the new owner or user of the Products may only use the Licensed Programs in accordance with terms of this License Agreement. Subject to the foregoing, any assignee hereunder shall be subject to all of the terms, conditions and provisions of this License Agreement. Any attempt by LICENSEE to assign, sub-license, or transfer the Licensed Programs, or any of the rights or duties contained in this License Agreement, without LICENSOR's prior written consent shall be void.

8.0 Severability.

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

9.0 Waiver.

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

10.0 Compliance with Laws.

Licensee acknowledges that the Licensed Programs are 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 Harris 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 License Agreement.

11.0 Governing Law.

This License Agreement will be governed by the laws of the United States to extent that they apply and otherwise to the laws of the State of New York. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. The parties expressly agree that the Uniform Computer Information Transactions Act ("UCITA") applicable in any jurisdiction shall not apply to this License Agreement.

12.0 U.S. Government.

If Licensee is the U.S. Government, the Licensed Programs and documentation qualify as "commercial items," as that term is defined at Federal Acquisition Regulation ("FAR") (48 C.F.R.) 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212. Consistent with FAR 12.212, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which the License Agreement may be incorporated, Customer may provide to Government end user or, if the License Agreement is direct, Government end user will acquire, the software and documentation with only those rights set forth in the License Agreement. Use of either the software or documentation or both constitutes agreement by the Government that the software

and documentation are "commercial computer software" and "commercial computer software documentation," and constitutes acceptance of the rights and restrictions herein.

13.0 Agreement.

This License Agreement may be part of a Primary Agreement between LICENSOR and LICENSEE for the purchased products by LICENSEE from LICENSOR. The Primary Agreement and this License Agreement contain the full understanding of the parties with respect to the subject matter hereof and which supersede all prior understandings and writings relating thereto and which shall become binding on the Effective Date of this License Agreement. No waiver, consent, modification, amendment, or change to the terms of this License Agreement shall be binding unless agreed to in a writing signed by LICENSEE and LICENSOR. If there is any conflict between the terms of the Primary Agreement and this License Agreement as to the Licensed Programs, the terms of this License Agreement will prevail.

14.0 Notices.

Notices shall be provided as set forth in the Primary Agreement. In the event there is no notice provision in the Primary Agreement, notices and other communications between the parties shall be transmitted in writing by certified mail or nationally recognized overnight courier service.

15.0 Survival.

Sections 2, 3, 5, 6, 8, 9, 11, and 13 of this License Agreement shall survive termination of this agreement.

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

IMPORTANT - READ CAREFULLY:

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

Buyer and Seller agree as follows:

1. Definitions

1.1 "Buyer" means:

1.1.1 If Buyer is an individual, that individual;

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

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

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

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

1.4 "Licensed Programs" means the object code version of the software programs including, without limitation, any scripts, interfaces, graphics, displays, text, images, artwork, drivers, photographs, animations, video, audio, music, text, applets, documentation, associated media and other components or content provided as well as any services provided by Seller with the software, if any, together with any Modifications or Enhancements of the above items provided by Seller. This Agreement is limited to the object code programs only. No rights in or access to any source code or program listings are provided.

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

2. License Grant

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

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

3. Buyer Obligations

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

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

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

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

Licensed Programs or create any derivative thereof. The obligations set forth in this Subsection shall survive termination or expiration of this Agreement

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

3.6 The act of copying any portion of the Licensed Programs as authorized hereunder shall not cause, or be construed as causing, any portion thereof to be considered as being in the public domain or generally available on a nonproprietary basis. All such copies shall be treated as confidential as required for original information under Section 3.3.

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

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

4. Ownership

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

5. Warranty

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

Seller, at its option, will either: (i) correct the defect or error in the Licensed Program free of charge and provide a corrected Licensed Program, or (ii) make available to Buyer free of charge a satisfactory substitute Licensed Program.

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

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

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

6. HIGH RISK ACTIVITIES; LOCATION DATA

6.1 THE LICENSED PROGRAMS ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED, MANUFACTURED OR INTENDED FOR ANY USE REQUIRING FAIL-SAFE,

EMERGENCY OR MISSION CRITICAL PERFORMANCE IN WHICH THE FAILURE OF A LICENSED PROGRAM COULD LEAD TO DEATH, PERSONAL INJURY, PHYSICAL OR ENVIRONMENTAL DAMAGE. THIS USE RESTRICTION INCLUDES, WITHOUT LIMITATION, THE OPERATION OF AIRCRAFT AND THE DESIGN, CONSTRUCTION, OPERATION AND MAINTENANCE OF NUCLEAR FACILITIES.

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

7. LIMITATION OF LIABILITY

7.1 The total liability of Seller, including its third party subcontractors and suppliers, for all claims of any kind for any loss or damage, whether in contract, warranty, tort (including negligence or infringement), strict liability or otherwise, arising out of, connected with, or resulting from the performance or non-performance of this Agreement or from the use of the Licensed Programs shall not exceed the total amount of license fees and other amounts paid by Buyer to Seller for the purchase and use of the Licensed Programs.

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

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

8. Term and Termination.

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

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

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

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

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

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

9. U.S. Government Contracts

9.1 Buyer agrees that it will not use the Licensed Programs in the performance of a contract, or subcontract, with the U.S. Government in a manner so as to affect Seller's rights to Licensed Programs. If Buyer desires to use the Licensed Programs in the performance of a contract, or subcontract, with the U.S. Government, prior to such use Buyer shall consult with Seller as to the procedures and use of restrictive markings required to protect the ownership interest of Seller.

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

10. Export Control

10.1 The export regulations of the United States prohibit, with certain exceptions, the export from the United States or the transfer to foreign persons (non-U.S. citizens or "green card" permanent residents), whether in the U.S. or abroad, of technical data relating to certain commodities unless the exporter has obtained written authorization from the U.S. Government and received written assurance from the foreign importer that the technical data will not be further

exported without permission of the exporter and the cognizant U.S. Government agency. Buyer agrees to comply fully with all relevant regulations of the United States to assure that no violation of such regulations occurs.

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

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

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

11. Maintenance Support

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

12. Intellectual Property Indemnification

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

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

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

13. Third-Party Software Licenses

Licensed Programs contain material original to Seller and may contain material provided by third parties either under separate end-user license agreements or under Open Source licenses. Open Source Licensed Programs are provided under license from individual third party sources, identified in the Appendix attached to the end of this license agreement, if any. Each Open Source third party software license is incorporated herein verbatim from the source and the terms and conditions thereof are accepted by Buyer as a condition of use of the Licensed Programs. As used herein, Open Source means any software that is licensed under terms in any license for software which require, as a condition of use, modification and/or distribution of such software or of other software incorporated into, derived from or distributed with such software (hereinafter referred to as "Work"), any of the following: (a) the making available of source code or design information regarding the Work; (b) the granting of permission for creating derivative works regarding the Work; or (c) the granting of a royalty-free license to any party under intellectual property rights regarding the Work. By means of example and without limitation Open Source includes the following licenses or distribution models: the GNU General Public License (GPL), the GNU Lesser or Library GPL (LGPL), or any similar open source, free software or community licenses. Under no circumstances shall the Buyer combine Licensed Programs with any Open Source Software not supplied by Seller in any way. Third party software products included in the Licensed

Programs are only to be used with the Licensed Programs for Buyer's internal business purposes and are not to be used, modified or further developed for other purposes.

14. Assignment/Transfer.

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

15. Severability.

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

16. Waiver.

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

17. General

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

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

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

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

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

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

17.6 Governing Law

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

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

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

APPENDIX

Open Source Licensed Programs
(See Article 13)

<u>Third Party SW</u>	<u>Licenses</u>	<u>License Location</u>
Android LogBack	GNU LGPL 2.1	https://github.com/twall/jna/blob/master/LGPL2.1
SLF4J	MIT license	http://slf4j.org/license.html
Google Maps	Google	https://developers.google.com/maps/licensing

EXHIBIT C

FORM OF SURETY BOND FOR PERFORMANCE