

## MOTOROLA SOLUTIONS WAVE WIRELESS SERVICES SUBSCRIPTION AGREEMENT

This Agreement is made on the \_\_\_\_ Day of \_\_\_\_\_ 201\_\_ between Motorola Solutions Inc., whose registered office is in Chicago, Illinois (“Motorola Solutions”) and

\_\_\_\_\_ (“Customer”) each of which is a “Party” and together the “Parties” to this “Agreement.”

### BACKGROUND

Motorola Solutions is a provider of communications equipment and related communications services, and

The Customer wishes to purchase subscription services on a Motorola Solutions Push to Talk network (“PTT Services”)

In return for up-front and monthly payments from the Customer as set forth in <https://waveoncloud.com/> Motorola Solutions is willing to provide those PTT Services, subject to the terms and conditions of this PTT Services Subscription Agreement (“Agreement”).

### THE PARTIES THEREFORE AGREE AS FOLLOWS:

This Agreement sets forth the terms and conditions under which Motorola Solutions will provide and Customer will receive the PTT Services described.

#### 1. Definitions

The following terms shall have the meaning set out below in relation to the Agreement:

“Agreement” means this PTT Subscription Agreement entered into between Motorola Solutions and the Customer including Schedule(s) and Appendices thereto, any Schedules included on <https://waveoncloud.com/> and any Change Requests and any Orders or Order Forms;

“Applicable Law” means all federal, state or local laws (including case law), legislation, regulations, statutes, statutory instruments, rules, regulations, edicts, by-laws or directions or guidance from government or governmental agencies which have the force of law from time to time;

“Catalogue” means the catalogue of Motorola Solutions LMR Equipment and Services, which the Customer may order on an ad hoc basis

“Charges” or “Service Charges” mean the charges payable by the Customer from time to time in accordance with this Agreement as set out in <https://waveoncloud.com/> ;

“Confidential Information” means all information which is secret or otherwise not publicly available (in both cases either in its entirety or in part) including commercial, financial, marketing or technical information, know-how, trade secrets or business methods, or Personal Data, in all cases whether disclosed orally or in writing before or after the date of this Agreement;

“Commencement Date” means the date that Customer starts receiving PTT Services;

“Customer Data” means all data, information, personal data and other material inputted by the Customer or the User into the Equipment or Software or transferred by the Equipment or Software;

“Customer Representative” means the person(s) nominated by the Customer and notified to Motorola Solutions in writing who shall be the single point of contact for the purpose of communications between Motorola Solutions and the Customer regarding incidents and service-related issues;

“Customer Responsibilities” means those matters for which the Customer is responsible for providing or complying with as set out at section titled Customer’s Obligations;

“Day” means a calendar day commencing at 00.00 hours on that day and ending at 00.00 hours on the following calendar day;

"Defect" means any deficiency in equipment or software that renders it unable to perform the functions or to provide the facilities or to meet the performance standards as set out in its specification, or otherwise

renders it non-compliant with this Agreement. “Defect” shall not include equipment that has been damaged as result of improper use;

“Documentation” means any description of the Software and all technical specifications, user manuals, operating manuals, process definitions and procedures relating thereto;

“Effective Date” means the date this Agreement is signed by both parties;

“Equipment” means any radio or telephone device, any infrastructure element or equipment, any accessory, and any part or portion of such products, including software and other intangible elements, that are furnished by Motorola Solutions or an authorized agent, and that are used in any fashion in transmitting, providing or receiving PTT Services under this Agreement.

“Intellectual Property Rights” means patents, trademarks, trade names and service marks, present and future copyrights (including software), topography rights, database rights, and design rights, moral rights, trade secrets and rights of confidence, know-how and all rights or forms of protection of a similar nature or having similar effect to any of them which may subsist anywhere in the world whether or not any of them is registered and including applications for registration for any of them;

“Invoice Date” means the dates on which Motorola Solutions may issue invoices to the Customer.

“Minimum Period” means the minimum term available to the Customer for the PTT Service chosen, as set out in <https://waveoncloud.com/>, and shall normally be 2 years unless otherwise agreed between the Parties in writing;

“Order” or “Order Form” means an order on Motorola Solutions’ Order Form for Devices Equipment or Services available from Motorola Solutions;

“Response Time” means the time taken for Motorola Solutions to respond to the Customer following receipt of an incident or fault notification;

“Service(s)” means any and all service(s), including PTT Services and LMR Services, to be supplied by Motorola Solutions to the Customer, as set forth in the Customer’s Order Form and as available at <https://waveoncloud.com/Signup/Pricing>;

“Software” means the object and / or source code of applications owned or licensed by Motorola Solutions supplied as part of the PTT Services or LMR Services, or as otherwise made available;

“Support Services” means the support and maintenance services to be provided by Motorola Solutions;

“Termination Date” means the date on which the Services are terminated by either party in accordance with the terms of this Agreement;

“Third Party Software” means a software platform provided by a third party for the provision of the PTT Services;

“Trade Mark” means Motorola’s registered and unregistered trademarks, logos and other branding;

“User” means the Customers’ employees or other operatives authorized by the Customer to use the Equipment or the PTT Services;

“Underlying Provider” means the provider that is providing underlying LTE service for the system;

“Working Days” means any day which is not a Saturday, Sunday or holiday in the United States, and

“Working Hours” means between the hours of 09.00 – 17.00 on any Working Day.

## 2. ACCEPTANCE.

All sales to Customer of PTT Service, LMR Services, and any Equipment and wireless telecommunications services, data services and software are made under the terms and conditions herein. Customer’s placement of an order, pursuant to this Agreement, or acceptance of or payment for Equipment or Services under this Agreement will constitute acceptance of these terms. If Customer purchases certain applications, features or software, Customer may be subject to and required to agree to additional terms, including but not limited to Motorola Solutions terms of use for such products.

## 3. SERVICES.

In exchange for payment by the Customer of the monthly fees set forth at <https://waveoncloud.com/Signup/Pricing>. Motorola Solutions will provide PTT Services to Customer. Motorola Solutions will provide Customer with these PTT Services to use on the Equipment for the plan,

features and data as specified on the Order Form, as further detailed on Motorola Solutions' web site. Customer acknowledges that the unavailability of coverage is normal and expected in some circumstances, particularly in rural areas, and that at times of high usage concentrated in particular locations, access to the network may also be delayed in such locations. Some PTT Services may not be available or may operate differently in certain markets.

Motorola Solutions may for operational or legislative reasons make minor changes to the codes or the numbers used by it for the provision of the PTT Services, or the technical specification of the PTT Services, provided that any change to the technical specification does not materially affect the performance of the Services.

**4. NO RELATIONSHIP WITH UNDERLYING SERVICE PROVIDER and LIABILITY DISCLAIMER**  
The Underlying Provider, shall have no liability whatsoever for Customer's losses, claims or damages for any case whatsoever, including but not limited to any failure or disruption of PTT Services provided under this Agreement, regardless of the form of action, whether in contract, tort or otherwise.

CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT IT HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE UNDERLYING WIRELESS SERVICE PROVIDER OR ITS AFFILIATES OR CONTRACTORS AND THAT CUSTOMER IS NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN MOTOROLA SOLUTIONS AND THE UNDERLYING CARRIER. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE UNDERLYING CARRIER AND ITS AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO CUSTOMER AND CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR.

**5. EQUIPMENT.**

If Customer purchases or leases Devices or other PTT related Equipment from Motorola Solutions, Customer will pay the cost shown for such Equipment described at <https://waveoncloud.com/Signup/Pricing> plus shipping and any applicable tax.

**6. MOTOROLA SOLUTIONS' OBLIGATIONS**

Motorola Solutions undertakes that:

It will use suitably skilled and appropriately experienced personnel to provide the Services;

Its obligations under this Agreement including, without limitation, the Services will be performed with reasonable skill and care and in accordance with:

i) the Documentation;

ii) Good Industry Practice; and

iii) In compliance with all Applicable Laws.

iv) This undertaking shall not apply to the extent of any non-conformance of the Services which is caused by use of the PTT Services or hardware or software contrary to Motorola Solutions' instructions or caused by any party other than Motorola Solutions or Motorola Solutions' duly authorized agents. If the Services do not conform to the foregoing undertaking, Motorola Solutions will, at its expense, use all reasonable commercial endeavors to correct any such non-conformance promptly, or endeavor to provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking or services provided under this Agreement. Notwithstanding the foregoing, Motorola Solutions does not warrant that the Customer's use of the System, Hardware, Software or Services will be uninterrupted or error-free.

v) This Agreement shall not prevent Motorola Solutions from entering into similar agreements with third

parties, or from independently developing, using, selling or licensing materials, products or services which are similar to those provided under this Agreement.

vi) Motorola Solutions shall keep the Documentation and any other embedded documents updated and may make such changes as it may reasonably consider necessary to such documents.

## 7. CUSTOMER'S OBLIGATIONS

The Customer shall:

i) provide Motorola Solutions with all necessary cooperation in relation to this Agreement; and all necessary access to such information as may be required by Motorola Solutions in order to render the Services,

ii) comply with all applicable laws and regulations with respect to its activities under this Agreement; and

iii) carry out all other Customer responsibilities set out in this Agreement or in any Attachments or Schedules in a timely and efficient manner.

In the event that there is a delay to any implementation dates or any other dates agreed by the parties and such delay is, in Motorola Solutions' reasonable opinion, caused primarily by the Customer's acts or omissions, the Customer shall pay any charges that would have been properly due and payable to Motorola Solutions on achieving the agreed implementation dates but for such delays. If, in the reasonable opinion of Motorola Solutions, Motorola Solutions has contributed to such delays, then without prejudice to any other rights or remedies of either party, the parties shall enter into good faith negotiations to agree the proportion of charges to be paid by the Customer to Motorola Solutions, provided always that if the parties are unable to agree the proportion of charges within 5 working days, Motorola Solutions shall, acting reasonably and at its sole discretion, determine such charges.

## 8. PAYMENTS AND COLLECTION.

Customer will pay Motorola Solutions all amounts due under the Agreement (including, without limitation amounts due for any PTT Service, Equipment, and any other charges) by the payment due date established by this Agreement, or by any related invoice. The Customer shall pay the Charges invoiced without any set-off, deductions or withholding whatsoever. If the Customer requires any additional services to be performed outside the Working Hours, Motorola Solutions may charge the Customer amounts in addition to the Charges. The Customer shall pay all invoiced amounts properly due.

Customer will pay Motorola Solutions for any expenses Motorola Solutions incurs in collecting amounts due under this Agreement, including without limitation, court costs and attorneys' fees. Motorola Solutions and Motorola Solutions agents may contact Customer's address, email, PTT number, and any other phone/cell phone number provided to Motorola Solutions to contact Customer about Customer's account status or as otherwise permitted by law, including but not limited to, collecting amounts due, and using prerecorded or live calls, emails, and calls or messages delivered by an automatic telephone dialer system.

Customer will pay any federal, state, or local transactional taxes, fees or surcharges based on the place of primary use set forth in the Order Form, including, without limitation, universal service fees, 911 surcharges, sales, mobile communications service taxes, activation fees, regulatory cost recovery fees and gross receipts taxes.

If Customer believes any invoice is incorrect, Customer must notify Motorola Solutions in writing concerning Customer's dispute within 14 days from the date of the first invoice containing Customer's dispute or waive Customer's right to that dispute. If Motorola Solutions agrees with Customer's position, Motorola Solutions will credit Customer's account or, if Customer's account is ended, send Customer a check.

## 9. TERM/TERMINATION.

This Agreement shall come into force on the Effective Date and shall continue in force for the Minimum Period and shall continue thereafter unless or until either Party serves notice of termination. After the end of the Minimum Period, the Agreement will renew for successive one-month terms unless either Motorola Solutions or Customer terminate this Agreement as provided herein. Either Customer or Motorola Solutions may terminate this Agreement upon the expiration of the Minimum Period or any renewal by providing the other with 30 days advance written notice. If the Agreement is terminated, Customer will pay all charges owing under the Agreement within 10 days of the payment due date.

#### Termination For Breach

Either Party may terminate this Agreement:

- i) immediately on notice if the other party commits a material breach of its obligations under this Agreement which is capable of remedy and fails to remedy such breach or persists in it after thirty (30) days of a written notice requiring it to remedy or desist; or
- ii) immediately on notice if the other party commits a material breach of the Agreement which cannot be remedied; or
- iii) on thirty (30) days' notice if the other party is repeatedly in breach of the Agreement and the overall effect of the breach is material and fails to remedy the breach(es) within thirty (30) days of a written notice to do so; or
- iv) immediately on notice if the other party is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of their creditors, or goes into voluntary (otherwise than for reconstruction or amalgamation) or compulsory liquidation, or a receiver or administrator is appointed over their assets, or if the equivalent of any such events under the laws of any of the relevant jurisdictions occurs to the other party.
- v) Any failure by the Customer to comply with any of its obligations in the Section titled Customer Responsibilities shall be deemed a material breach of this Agreement. If any of the events detailed in such Section occur and the Customer is the defaulting party, Motorola Solutions may, on giving prior notice where practicable, suspend the Service without prejudice to its right to terminate the Agreement. vi) Where the Service is suspended under this Section: the Customer must pay any Charges due for the Service until this Agreement is terminated; and/or Motorola Solutions shall be entitled to charge the Customer its reasonable costs in restoring the Services following any such period of suspension.
- vii) If any party delays in acting upon a breach, that delay will not be regarded as a waiver of that breach. If either party waives a breach of this Agreement, that waiver is limited to that particular breach and shall not prevent the subsequent enforcement of that provision. Any waiver of any breach of this Agreement must be in writing to be effective.
- viii) If the Agreement is terminated by Motorola Solutions for breach during the Minimum Period then the Customer must pay Motorola Solutions, without prejudice to any other rights Motorola Solutions may have, the relevant Termination Charges.

#### Termination By Notice

Unless otherwise agreed in writing between the Parties, the Customer may terminate the Agreement at any time by giving one (1) month prior written notice, subject to the payment of any Termination Charges.

Motorola Solutions may terminate the Agreement at any time by giving 60 days prior written notice, such notice not to expire before the end of the Minimum Period provided always that Motorola Solutions may terminate the Agreement at any time before the end of the Minimum Period if the events in the Section titled Termination for Breach occur.

The termination of this Agreement or of any of the Services shall be without prejudice to the rights and remedies of either party that may have accrued up to the date of termination.

## 10. Consequences of Termination

### EARLY CANCELLATION

**If Customer cancels or otherwise terminates an annual service agreement prior to the end of the Minimum Period, which is currently 2 years, Customer shall pay the following charges for each line:**

**Cancellation from Day 1 to Day 365: Customer will owe the full MSRP of the device for each line cancelled, as set forth the pricing document. The MSRP is currently \$350.00**

**Cancellation from Day 366 to Day 730: Customer will owe 50% of the MSRP of the device for each line cancelled, as set forth in the pricing document. Customer will owe \$175.00**

On the expiry or termination of this Agreement and any Order Form for any reason whatsoever: The relationship of the Parties shall cease to the extent of the Service being provided under this Agreement or any Order Form and any rights or licences granted under or pursuant to this Agreement or any Order Form shall cease to have effect save as (and to the extent) expressly provided for in this Section.

All Sections intended by their nature to continue in effect, shall continue in full force and effect; Upon termination of the Agreement, each party shall promptly return to the other or dispose of in accordance with the other's instructions all of the other party's Confidential Information, Data, other data or documents, together with all copies of the same and certify it has done so and it shall make no further use of such Confidential Information, Data, other data or documents; and Motorola Solutions shall within thirty (30) days of the expiry or termination of this Agreement submit its final invoice to the Customer (including any Termination Charges) setting out the total amounts due to Motorola Solutions pursuant to this Agreement, and the Customer shall pay the same no later than the end of the month following the month in which the invoice was issued by Motorola Solutions.

### 11. DEFAULT.

The occurrence of any of the following events constitutes default under the Agreement: (i) Customer's failure to pay when due any amount payable under this Agreement; (ii) the sale, lease or transfer of PTT Services without Motorola Solutions' prior written consent; (iii) any statement provided by Customer or someone on Customer's behalf that is false or misleading; (iv) use of Equipment, Services or the underlying system in a manner that affects Motorola Solutions' service or operations, is not within the permitted usage allowance, is not within the system, or is not approved by Motorola Solutions; (v) any breach of Customer's obligations under any installment payment agreements with Motorola Solutions, or (vi) any other breach of Customer's obligations under the Agreement. Upon the occurrence of any default, Motorola Solutions may immediately disconnect any PTT Service and pursue any additional legal remedies.

### 12. E-911 / EMERGENCY SERVICES.

NO EMERGENCY SERVICES ACCESS IS PROVIDED OR CONTEMPLATED UNDER THIS AGREEMENT OR UNDER THE SERVICES ASSOCIATED WITH THIS AGREEMENT. THE SYSTEM AND ASSOCIATED PTT SERVICES DO NOT SUPPORT E911 OR 911 DIALING.

### 13. PRIVACY and DATA COLLECTION.

To provide optimal PTT Services, and in accordance with applicable laws, rules and regulations, Motorola Solutions may use and disclose for system diagnostics, operational and other purposes,

information about Users, including, but not limited to, User's usage, name, employer, password, street address, telephone number, email and location. Of this information, Motorola Solutions will obtain and possess certain usage-related Proprietary Network information of "CPNI". Under federal law, Users have the right and Motorola Solutions has the duty, to protect the confidentiality of Customer's CPNI (as defined by applicable law), which Motorola Solutions will protect in accordance with all applicable laws, rules and regulations and Motorola Solutions' policies. Customer acknowledges and agrees that Motorola Solutions may be obligated to disclose User information pursuant to court order or as otherwise required by law. If Motorola Solutions is required by law or similar process to disclose User information, Motorola Solutions may (to the extent legally permissible) provide Customer with written notice of such request or requirement so that Customer may seek an appropriate protective order. In addition, and more generally, Motorola Solutions may collect and protect certain information during (and about) Customer's use of the PTT Services in accordance with Motorola Solutions Privacy Policy.

#### THE UNDERLYING NETWORK PROVIDER MAY HAVE ADDITIONAL POLICIES REGARDING PRIVACY FOR USERS OF ITS NETWORK.

MSI will capture the following service statistics in a log file: 1) Battery level; 2) Cellular signal strength; 3) Wi-Fi signal strength; 4) GPS coordinates - these are transmitted back to Wave OnCloud server.

In order to continually innovate and improve TLK 100 device/service, MSI may collect additional diagnostics/logs associated with the operation of the software and hardware

Motorola Solutions' collection and use of personally identifiable information about you is subject to our Privacy Statement. For more information, a link to our full privacy statement will be provided to you.

Motorola Solutions cannot ensure that communications on the PTT Network are protected from unauthorized access or other intrusions or data breaches. If Motorola Solutions is made aware by the Underlying Network Provider of a privacy breach, Motorola Solutions will notify Customer and work with Customer and Underlying Network Provider to mitigate the impact of any such breach.

#### 14. CUSTOMER COVENANTS.

Customer will use the PTT Services and related Equipment only in the manner for which each was designed and not for any unlawful, fraudulent, abusive or unethical purpose, and within Customer's permissible usage allowance, all strictly in accordance with Motorola Solutions' Acceptable Use Policy. Customer will use only Equipment that is fully compatible with the PTT Services and system. If Customer is an institutional customer, Customer must instruct Customer's employees in the use of Equipment and PTT Services. Motorola Solutions may terminate the Agreement if Motorola Solutions believes that Customer is in violation any applicable law or engaging in any fraudulent, abusive or unethical behavior. All intellectual property rights remain with Motorola Solutions or the developer and Customer will not (nor will Customer permit any other person to) modify, disclose, reproduce or reverse engineer any portion of software. Any applications, software and content that are loaded on Customer's Equipment by non-representatives or by Customer are done so at Customer's own risk. Neither Motorola Solutions nor Underlying Network Provider are responsible for (or have any liability whatsoever arising from or in connection with) any third party information, content, application, or services that Customer or Users access, download or use on Equipment or otherwise use with the Services.

The Customer shall not use the PTT Services in any way that does not comply with: the terms of any Applicable Law; and/or any instruction given by Motorola Solutions in relation to regulatory, health and safety matters; and/or any other instruction given reasonably by Motorola Solutions or by any other competent governmental or regulatory authority in relation to this Agreement from time to time.

Customer may not use the Equipment or PTT Service for any “mission critical” function, defined as any use for public safety or life-saving purposes, including police, fire, ambulance and other other similar mission critical function.

#### 15. BRING CUSTOMER’S OWN DEVICE.

At this time the only devices authorized on the System shall be the TLK100 provided by Motorola Solutions or authorized dealers of Motorola Solutions.

#### 16. WARRANTIES

Motorola Solutions warrants that the Equipment it provides to Customer will not have any material Defects for the Minimum Period. Motorola Solutions does not warrant Defects that are caused by or result from: Customer action over and above normal wear and tear; or any changes to the Software (required to operate the Device) or configuration effected by the Customer, User or a third party; and Customer or User misuse including where the Customer or User fails to use the Equipment in accordance with Motorola Solutions’ usage requirements; incorrect environmental conditions including where the Customer or User fails to maintain the temperature and humidity levels in accordance with manufacturer or Motorola Solutions instructions; electrical surges or failures; lightning damage; electromagnetic interference; any other accidental or deliberate damage; and any services and/or products supplied by a third party and not under this Agreement.

Where Motorola Solutions is in breach of this warranty and the Customer has notified Motorola Solutions, Motorola Solutions will, at its discretion, repair or replace any Equipment or any element of any Equipment to correct any Defects during the Minimum Period. No warranty shall extend beyond the Minimum Period.

**NO GUARANTEE OF FUNCTIONALITY.** Customer acknowledges that functionality of the PTT Service is dependent on many elements beyond Motorola Solutions’ control. Therefore, Motorola Solutions does not warrant or guarantee availability or the PTT System, or any minimum level of coverage or connectivity. Interruption or interference with the PTT Services may periodically occur. Motorola Solutions does not provide any assurance or guarantee of coverage. Coverage may not be available or reliable in any geographic area or location. Customer agrees not to represent to any third party that Motorola has provided such guarantee.

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

#### 17. Limitation of liability

Nothing shall exclude or limit the liability of either party for: death or personal injury caused by its negligence; or fraud or fraudulent misrepresentation; or any other liability that may not be excluded or limited by law.

Nothing shall exclude or limit the liability of the Customer in respect of any indemnities given in this Agreement and in respect of any breach of Section titled Intellectual Property Rights.

Subject to the above, the maximum aggregate liability of Motorola Solutions to the Customer under this Agreement in relation to all claims made in any one calendar year for all losses, damages, costs, claims or



expenses suffered by the other arising out of or in connection with any breach of this Agreement or any tort (including negligence or breach of statutory duty) or breach of contract or misrepresentation or otherwise in connection with such party's obligations under this Agreement, shall under no circumstances exceed the total amount paid for the applicable PTT Services in the relevant calendar year in which the claim or claims are made.

Motorola Solutions shall not be liable to the Customer, whether under the terms of this Agreement, in tort (including negligence) or breach of statutory duty or contract or misrepresentation or otherwise for any of the following losses or damage (whether such losses or damage were foreseen, foreseeable, known or otherwise): loss of revenue; loss of profits; loss of business; loss of anticipated savings; or loss of data; in each case whether direct or indirect, special or consequential loss or damage, howsoever arising.

#### 18. Customer Indemnity

The Customer shall indemnify Motorola Solutions in full and on demand against all claims, demands, actions, proceedings, damages, losses, costs and expenses (including legal and other professional adviser's fee and fines imposed) whether direct or indirect, incurred in relation to: any claims or legal proceedings that are brought or threatened against Motorola Solutions by any third party arising from the Customer's or User's usage of the Services, where such usage is not in accordance with the terms of the Agreement or any Applicable Law;

#### 19. Matters outside either party's control

If any party is unable to perform any obligation under this Agreement because of a matter beyond that party's reasonable control (the "Affected Party"), such as lightning, flood, exceptionally severe weather, fire, explosion, acts of God, war, civil disorder, acts of terrorism, freight embargo, industrial disputes (whether or not involving that party's employees) or acts of local or central government or other competent authorities, or events beyond the reasonable control of that party's suppliers, the Affected Party shall have no liability to the other for that failure to perform except that the Customer always has a duty to pay all Charges due and owing.

Motorola Solutions will have no liability to the Customer for failure to supply the PTT Services in the event of Motorola Solutions being prevented by restrictions of a legal, common law or regulatory nature from supplying the PTT Services. If any of the events detailed in this Section continue unbroken for more than three (3) months, the other party may serve notice on the Affected Party terminating this Agreement or the affected PTT Service, without liability by reason of such termination.

#### 20. Changes to this agreement

Changes to the Services and Charges. Motorola Solutions reserves the right to change the Services from time to time, provided that: such changes to the Services (which may include the withdrawal of some Services or part of the Service and their replacement with new Services or parts of the Service) are part of on-going product development. Motorola Solutions reserves the right to change the fees and other charges for PTT Services and related Equipment upon 60 days prior notice to the Customer.

Changes Required by Law. Where a change in Applicable Law requires a change to the PTT Services, Devices or other Equipment, nothing shall prevent Motorola Solutions from implementing such a change provided that: (1) Motorola Solutions gives the Customer reasonable notice of the change; or (2) If the change materially affects the performance or functionality of the Services or Equipment, Motorola Solutions shall provide a suitable replacement or workaround in relation to the change.

#### 21. Confidentiality

The Parties will keep in confidence any Confidential Information (whether written or oral) obtained pursuant to this Agreement and shall not, without the written consent of the other party, disclose such Confidential Information to any person (other than their employees or professional advisers, or in the case of Motorola Solutions the employees of any Motorola Solutions subsidiary company or their suppliers, who need to know the information or in the case of the Customer the Users where they need to know the information and are under obligations of confidentiality equivalent to those in this Agreement).

This Section shall not apply to: any information that has been published other than through a breach of the Agreement; information lawfully in the possession of the recipient before the disclosure under the applicable Schedule to this Agreement took place; information obtained from a third party who was free to disclose it; and information that a party is required to disclose by law, provided that prior to such disclosure, to the extent permitted by law, the other party is consulted as to the proposed form, nature and purpose of the disclosure.

The obligations of confidentiality contained in this section will remain in effect for two (2) years after the termination of this Agreement.

The Customer acknowledges that Motorola Solutions may be contractually or legally obliged to disclose the identity of a User of the Motorola Solutions network or PTT Services from time to time, and agrees that for the avoidance of doubt such disclosure shall not constitute a breach of the confidentiality obligations under this Section.

## 22. Intellectual Property Rights

IPR In Software/Services: Unless expressly specified otherwise in this Agreement, the Customer shall not acquire title to:

- i) any Intellectual Property Rights in the Services or associated with the provision of the Services;
- ii) Motorola Solutions' Confidential Information and any other documents, assets, designs, software or data supplied by Motorola Solutions as part of the Services; nor any third party Intellectual Property Rights used in the provision and performance of the Services.
- iii) Motorola Solutions grants to the Customer for the duration of this Agreement a non-exclusive, non-transferable license to use the Documentation, together with any software provided pursuant to the Services, to the extent that it is able to do so and is necessary to enable the Customer to use the PTT Services. Customer shall not, without Motorola Solutions' prior written consent, copy, decompile or modify the software, nor copy any Documentation (except as permitted by law). The Customer shall sign any agreement reasonably required by the owner of the copyright in the software or any part of the Documentation to protect the owner's interest in that software and/or Documentation.

IPR Indemnity. Each party hereby indemnifies the other, its employees, sub-contractors and agents in full and on demand and keeps them so indemnified against all claims, demands, actions, proceedings and all direct and indirect damages, losses, costs and expenses (including without limitation legal and other professional advisers' fees) and any consequential loss made against or incurred or suffered by any of them and whether wholly or in part resulting directly or indirectly from any claim by a third party that the provision by Motorola Solutions or use by the Customer or its Users of the PTT Services or the use by Motorola Solutions of the Customer's Intellectual Property Rights in connection with the performance of the Services, or [Customer's use of third party technologies in connection with PTT Services,] infringes the Intellectual Property Rights of any third party. Each party undertakes, if a claim, demand or action is made or threatened which may reasonably be considered likely to give rise to a liability under this indemnity (a "Claim"), then the indemnified party shall as the case may be: notify the indemnifying party of such a claim, demand or action in writing within 5 Working Days of the earlier of it first being made or threatened or, if not reasonably practicable to do so, then as soon as reasonably practicable thereafter, specifying the nature of the Claim in reasonable detail; give the indemnifying party promptly all

reasonable co-operation, assistance and information which may be relevant to the claim, demand or action; and not admit, defend, compromise, negotiate or settle the claim or action without the consent of the indemnifying party (such consent not to be unreasonably withheld) in writing. Nothing shall restrict or limit either Party's general obligation at law to mitigate a loss that it may incur as a result of a matter giving rise to a Claim.

### 23. Assignment

Neither party may assign, sub-contract, novate, transfer or otherwise dispose of any of its rights or obligations under this Agreement, without the written consent of the other, such consent not to be unreasonably withheld or delayed, except that:

Motorola Solutions may transfer its rights or obligations (or both) to a Motorola Solutions subsidiary without consent and Motorola Solutions may sub-contract to any third party such obligations as it deems necessary to perform one or more parts of the Service; and

The Customer may transfer its rights or obligations (or both) to a Customer subsidiary.

### 24. Entire Agreement and third Parties

This Agreement together with the relevant Order Form(s) comprises the entire agreement between the Parties related to its subject matter and supersedes all previous written or oral agreements relating to its subject matter.

The Parties acknowledge and agree that this Agreement has not been entered into wholly or partly in reliance on, nor has either party been given, any warranty, statement, promise or representation by the other or on its behalf, other than as expressly set out in this Agreement.

Each party agrees that the only rights and remedies available to it arising out of or in connection with any warranties, statements, promises or representations will be for breach of contract and irrevocably and unconditionally waives any right it may have to any claim, rights or remedies including any right to rescind this Agreement which it might otherwise have had in relation to them.

All warranties, conditions, terms and representations not set out in this Agreement whether implied by statute or otherwise are excluded to the extent permitted by law.

Nothing above will exclude any liability in respect of misrepresentations made fraudulently.

Any person who is not party to this Agreement has no rights under the Contracts to enforce any term of this Agreement.

### 25. Notices

Notices under this Agreement shall be in writing to (for the Customer) to the address or email specified and (for Motorola Solutions) the Motorola Solutions Representative, and may be delivered by hand or by courier, or sent by first class post and, if posted shall be deemed to have been received two (2) Working Days following the date of posting.

### 26. Dispute Resolution

Either party may call a meeting of the Parties by service of not less than thirty (30) days written notice to resolve any disputes or disagreements relating to this Agreement or any Order form and each party agrees to procure that its authorised representatives shall attend all such meetings. The authorised representatives and others attending the meeting shall use all reasonable endeavours to resolve disputes arising out of this Agreement.

If the Parties fail to resolve the dispute in the allotted time, the Parties may within that period on the written request of both Parties ("the ADR Request") agree in writing to enter into an Alternative Dispute Resolution Procedure with the assistance of a mediator agreed by the Parties.

Recourse to this Dispute Resolution Procedure shall be binding on the Parties as to submission to the mediation but not as to its outcome. Accordingly all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the Parties in any future legal proceedings. Except for any party's right to seek interlocutory relief in the courts, no party may commence other legal proceedings under the jurisdiction of the courts or any other form of arbitration until fifteen (15) days after the Parties have failed to reach a binding settlement by mediation.

If, with the assistance of the mediator, the Parties reach a settlement, such settlement shall be reduced to writing and, once signed by a duly authorised representative of each of the Parties, shall remain binding on the Parties.

The Parties shall bear their own legal costs of this Dispute Resolution Procedure, but the costs and expenses of mediation shall be borne by the Parties equally.

#### 27. Severability and variation

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of its provisions will continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provision omitted.

#### 28. Further Assurances

Both Parties shall at their own expense promptly:

execute all documents and do all acts and things reasonably required by the other party to give effect to the terms of this Agreement; and

within such time limits as are reasonable in the circumstances provide all accurate information, documentation and assistance reasonably requested by the other party to enable that other party to fulfil its obligations hereunder.

In performing the Services, Motorola Solutions shall operate as, and have the standing of, an independent contractor.

#### 29. [Intentionally deleted -- Reserve]

#### 30. Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement. No counterpart shall be effective until each party has executed at least one counterpart.

#### 31. Governing Law and Jurisdiction

This Agreement and all disputes arising out of or in connection with this Agreement whether in contract, tort (including negligence), breach of statutory duty or otherwise shall be governed by the laws of the state of Illinois.

Subject to first complying with Dispute Resolution, the parties submit to the exclusive jurisdiction of the courts of Illinois to settle any dispute arising out of or in connection with this Agreement whether in contract, tort (including negligence), breach of statutory duty or otherwise.

Signed by Customer on the date of this Agreement

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Company \_\_\_\_\_

Address \_\_\_\_\_

Email \_\_\_\_\_

Phone No: \_\_\_\_\_

Date \_\_\_\_\_