

ATTACHMENT 4 - SOFTWARE LICENSE AGREEMENT

(NOTE: TO THE EXTENT, IF ANY, THAT THERE IS A SEPARATE LICENSE AGREEMENT PACKAGED WITH, OR PROVIDED ELECTRONICALLY WITH, A PARTICULAR PRODUCT THAT BECOMES EFFECTIVE ON AN ACT OF ACCEPTANCE BY THE END USER, THEN THAT AGREEMENT SUPERCEDES THIS SOFTWARE LICENSE AGREEMENT AS TO THE END USER OF EACH SUCH PRODUCT. IF REQUESTED, MOTOROLA WILL PROVIDE A COPY OF SUCH SEPARATE LICENSE AGREEMENT. IN ANY EVENT, THE END USER GOVERNMENT ENTITY SHALL HAVE ‘RESTRICTED RIGHTS’ AS SPECIFIED IN FAR 52.227-19(b)(2), AND THERE MAY OR MAY NOT BE A RESTRICTED RIGHTS NOTICE PROVIDED WITH THE MOTOROLA PRODUCTS.)

This Exhibit A Software License Agreement ("Agreement") is between Motorola Solutions, Inc., ("Motorola"), and Motorola's customer to whom Motorola's proprietary software or products containing embedded or pre-loaded proprietary software, or both is made available ("Licensee").

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

Section 1 DEFINITIONS

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

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

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

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

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

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

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

1.8 "Confidential Information" means any information that is disclosed in written, graphic, verbal, or machine-recognizable form, and is marked, designated, or identified at the time of disclosure as being confidential or its equivalent; or if the information is in verbal form, it is identified as confidential at the time of disclosure and is confirmed in writing within thirty (30) days of the disclosure. Confidential

Information does not include any information that: is or becomes publicly known through no wrongful act of the receiving party; is already known to the receiving party without restriction when it is disclosed; is or becomes, rightfully and without breach of this Agreement, in the receiving party's possession without any obligation restricting disclosure; is independently developed by the receiving party without breach of this Agreement; or is explicitly approved for release by written authorization of the disclosing party.

Section 2 SCOPE

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

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3.2. If the Software licensed under this Agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and conditions of this 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 Agreement. If requested by Licensee, Motorola will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this 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); and, (iii) provide Licensee a copy of the Open Source Software source code, without charge, if it is publicly available (although distribution fees may be applicable).

Section 4 LIMITATIONS ON USE

4.1. Subject to Section 9.2, Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

4.2. Licensee will not, and will not allow or enable any third party to: (i) reverse engineer, disassemble, peel components, decompile, reprogram or otherwise reduce the Software or any portion to a human perceptible form or otherwise attempt to recreate the source code; (ii) modify, adapt, create derivative works of, or merge the Software; (iii) copy, reproduce, distribute, lend, or lease the Software or Documentation to any third party, grant any sublicense or other rights in the Software or Documentation to any third party, or take any action that would cause the Software or Documentation to be placed in the public domain; (iv) remove, or in any way alter or obscure, any copyright notice or other notice of Motorola's proprietary rights; (v) provide, copy, transmit, disclose, divulge or make the Software or Documentation available to, or permit the use of the Software by any third party or on any machine except as expressly authorized by this Agreement; or (vi) use, or permit the use of, the Software in a manner that would result in the production of a copy of the Software solely by activating a machine

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

4.4. When using Motorola's Radio Service Software ("RSS"), Licensee must purchase a separate license for each location at which Licensee uses RSS. Licensee's use of RSS at a licensed location does not entitle Licensee to use or access RSS remotely. Licensee may make one copy of RSS for each licensed location. Licensee shall provide Motorola with a list of all locations at which Licensee uses or intends to use RSS upon Motorola's request.

4.5 If this Agreement involves the licensing of Cityworks or Customer Service Request software, the license is for the use of the Software with the Designated System or for the specified number of Concurrent Users for which it was provided, the purpose for which it was designed and only for the application specific use covered by this Agreement, or the Primary Agreement. This license does not allow access to the Software through other Designated Systems except as specifically permitted. "Concurrent User" means the maximum number of concurrent connections to Software authorized by this Agreement or the Primary Agreement at any one instance in time. "Designated System" means the computer hardware and operating system configuration specified in the Primary Agreement for which the Software is licensed for use. Additional Designated System licenses are required for communication with additional instances of a database or additional databases.

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

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Section 6 LIMITED WARRANTY; DISCLAIMER OF WARRANTY

6.1. Except as provided in Section 6.5, the commencement date and the term of the Software warranty will be a period of 90 days from Motorola's shipment of the Software, or 90 days from system acceptance if the Software is part of a new system purchase (the "Warranty Period"). If Licensee is not in breach of any of its obligations under this Agreement, Motorola warrants that the unmodified Software, when used properly and in accordance with the Documentation and this Agreement, will be free from a reproducible defect that eliminates the functionality or successful operation of a feature critical to the primary functionality or successful operation of the Software. Whether a defect occurs will be determined by Motorola solely with reference to the Documentation. Motorola does not warrant that Licensee's use of the Software or the Designated Products will be uninterrupted, error-free, completely free of Security Vulnerabilities, or that the Software or the Designated Products will meet Licensee's particular requirements. Motorola makes no representations or warranties with respect to any third party software included in the Software.

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6.3. To assert a warranty claim, Customer must notify Motorola in writing of the claim before the expiration of the Warranty Period. Upon receipt of this notice, Motorola will investigate the warranty claim. If this investigation confirms a valid warranty claim, Motorola will (at its option and at no additional charge to Licensee) correct the defect, replace the defective Software with the same or equivalent software, or refund the price of the defective Software or individual Designated Product in which the Software is embedded or for which it was provided. This action will be the full extent of Motorola's liability and Licensee's sole and exclusive remedy for a breach of this warranty. If the investigation indicates the warranty claim is not valid, then Motorola may invoice Licensee for responding to the claim on a time and materials basis using Motorola's current labor rates.

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

6.5 If there is a different warranty period for Software agreed upon in a contract or order accepted by Motorola, then that warranty period will apply in lieu of the one described above.

Section 7 TRANSFERS

Except as permitted in Section 9.2, Licensee will not transfer the Software or Documentation to any third party without Motorola's prior written consent. Motorola's consent may be withheld at its discretion and may be conditioned upon transferee paying all applicable license fees and agreeing to be bound by this Agreement. If the Designated Products are Motorola's radio products and Licensee transfers ownership of the Motorola radio products to a third party, Licensee may assign its right to use the Software (other than RSS and Motorola's FLASHport® software) which is embedded in or furnished for use with the radio products and the related Documentation; *provided* that Licensee transfers all copies of the Software and Documentation to the transferee, and Licensee and the transferee sign a transfer form to be provided by Motorola upon request, obligating the transferee to be bound by this Agreement.

Section 8 TERM AND TERMINATION

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

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

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

Section 9 UNITED STATES GOVERNMENT LICENSING PROVISIONS

9.1 This Section applies if Licensee is the United States Government.

(a) Licensee's use, duplication or disclosure of the Software subject to Motorola's copyrights or trade secret rights is subject to the restrictions set forth in subparagraphs (b)(1) and (2) of the Commercial Computer Software License clause at FAR 52.227-19 (DEC 2007). The Software may or may not include a Restricted Rights notice, or other notice referring to this Agreement.

(b) Licensee's use, duplication or disclosure of the Technical data, including software documentation, subject to Motorola's copyrights or trade secret rights, that is deliverable under the contract is provided with Limited Rights as defined in FAR 52.227-14. The Technical data, including software documentation, may or may not include a Limited Rights notice, or other notice referring to this Agreement.

The provisions of this Agreement will continue to apply, but only to the extent that they are consistent with the rights provided to the Licensee under the provisions of the FAR mentioned above, as applicable to the particular procuring agency and procurement transaction.

9.2 If Licensee is purchasing Designated Products and licensing Software for end use by the United States Government or a United States Government agency, Licensee may transfer such Software license, but only if: (i) Licensee transfers all copies of such Software and Documentation to such United States

Government entity or interim transferee, and (ii) Licensee has first obtained from the transferee (if applicable) and ultimate end user an enforceable end user license agreement containing restrictions substantially identical to the ones contained in this Agreement. Except as stated in the foregoing, Licensee and any transferee(s) authorized by this subsection 9.2 may not otherwise use or transfer or make available any Motorola software to any third party nor permit any party to do so.

Section 10 CONFIDENTIALITY

Licensee acknowledges that the Software and Documentation contain Motorola’s valuable proprietary and Confidential Information and are Motorola’s trade secrets. Licensee will not disclose the Software and Documentation to any third party except as permitted by this Agreement or expressly in writing by Motorola. Licensee will take necessary and appropriate precautions to maintain the confidentiality and guard against the unauthorized disclosure of the Software and Documentation, using at least the same degree of care that Licensee applies to its own confidential information, but not less than reasonable care. Precautions will include informing Licensee’s employees and agents who are authorized to use the Software and Documentation that this information is confidential and may not be disclosed to others. Licensee will limit access to the Software and Documentation only to Licensee’s employees and agents who “need to know,” are authorized to use the Software and Documentation as permitted by this Agreement, and are bound by confidentiality terms substantially similar to those contained in this Agreement.

Section 11 LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or any other cause of action, will be limited to the direct damages recoverable under law, but not to exceed the price for the Software, the Designated Products provided by Motorola in which the Software is embedded or installed, or the services specifically related to the Software with respect to which losses or damages are claimed. Although the parties acknowledge the possibility of such losses or damages, they agree that Motorola will not be liable under any circumstances or legal theory for damages related to inconvenience, downtime, interest, cost of capital, frustration of economic or business expectations, lost profits, lost revenues, lost savings, loss of use, time, data, or good will, or any special, punitive, indirect, incidental, or consequential damages, regardless or whether such losses are foreseeable. This limitation of liability provision survives the expiration or termination of this Agreement and applies notwithstanding any contrary provision in this Agreement. No action for breach of this Agreement or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of such cause of action, except for money due upon an open account.

Section 12 NOTICES

Notices required under this Agreement to be given by one party to the other must be in writing and either delivered personally or sent to the address shown below by certified mail, return receipt requested and postage prepaid, or by a recognized courier service, and will be effective upon receipt. Change of address must be in writing to the other party.

Licensee
Attn: _____

Motorola Solutions, Inc.
Attn: Law Department
7031 Columbia Gateway Drive, 3rd Floor
Columbia, MD 21046

Section 13 GENERAL

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

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

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

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

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

13.6. **SURVIVAL.** Sections 4, 5, 6.3, 7, 8, 9, 10, 11 and 13 survive the termination of this Agreement.

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

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