

**TOWN OF ADDISON, TEXAS**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A TERMINAL MAINTENANCE AGREEMENT BETWEEN TOWN OF ADDISON AND HARRIS CORPORATION FOR REPAIR AND MAINTENANCE OF MOBILE, PORTABLE AND CONTROL STATION RADIO EQUIPMENT, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

**Section 1.** The Terminal Maintenance Agreement between the Town of Addison and Harris Corporation for repair and maintenance of mobile, portable and control station radio equipment, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement.

**Section 2.** This Resolution shall take effect from and after its date of adoption.

**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas this the 10<sup>th</sup> day of November, 2015.

\_\_\_\_\_  
Todd Meier, Mayor

ATTEST:

By: \_\_\_\_\_  
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Brenda N. McDonald, City Attorney

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Terminal Maintenance Agreement  
for

TOWN OF ADDISON

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## EXHIBIT A

### CONTENTS

#### Figure 1.

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### **TERMINAL MAINTENANCE AGREEMENT**

THIS TERMINAL MAINTENANCE AGREEMENT (hereinafter "TMA") is entered into as of the Effective Date, by and between Harris Corporation, a Delaware Corporation, through its RF Communications Division, located at 221 Jefferson Ridge Parkway, Lynchburg, Virginia 24501, USA, ("Seller"), and the Town of Addison located at 4799 Airport Parkway, Addison, Texas 75001 (hereinafter "Customer") (each being a "Party" and collectively "the Parties"). Commencement of this Agreement shall occur upon Final Acceptance as defined in the System Purchase Agreement ("Commencement Date").

#### **Figure 2.**

#### **Figure 3. 1. SCOPE OF AGREEMENT**

During the Term of this TMA, Seller agrees to repair and maintain Customer's mobile, portable and control station radio equipment ("Terminals" or "Terminal Equipment") included in Addendum II – Equipment List in accordance with Section 2 and Addendum IV, Warranty/Maintenance Support Statement of Work. For purposes of this TMA, Terminal Equipment includes, but is not limited to, mobiles, portables, control stations, and their associated software.

#### **2. CONDITIONS OF SERVICE**

Seller shall supply all supervision, labor, service facilities, repair parts, test equipment, and supplies necessary to meet the service requirements stated in this TMA.

## **EXHIBIT A**

### **2.1 Service Facilities**

Seller's Regional Service Center in Irving, Texas ("Facility") is a full service maintenance facility available and staffed with factory trained service technicians. The Facility's staffing level shall be maintained to sufficiently meet the service requirements stated in this TMA throughout the Term of this TMA.

### **2.2 Right to Subcontract**

Seller may subcontract service work to Seller's authorized service centers. Should any subcontractor fail to perform or, in the reasonable opinion of Customer, such subcontractor's work otherwise proves unsatisfactory, Seller will arrange for continuing maintenance of the Terminal Equipment by qualified technicians for the duration of this TMA.

Customer reserves the right to reject work performed by Seller's subcontractors when service work is not performed in accordance with the service requirements set forth in this TMA. Subcontractors shall comply with all Federal, State, and local laws.

### **2.3 Terminal Spares**

**2.3.1** For purposes of this TMA, the phrases "Terminal Spares" and "Terminal Spares Inventory" means the collective group of items that have been identified by Seller to Customer that are needed to complete repairs on a malfunctioning or broken unit which, if not readily available, may result in leaving a mobile and/or portable radio user without a working radio unit. The Parties acknowledge that ready availability of Terminal Spares will facilitate repairs by Seller in the shortest possible time frame.

**2.3.2** Customer shall pay for the initial purchase of Terminal Spares Inventory. Seller shall thereafter pay the cost to repair and/or replace any Terminal Spares used for repairing or maintaining the Terminal Equipment. Seller is responsible for the cost to repair and/or replace all parts utilized maintaining the Terminal Equipment.

**2.3.3** Customer shall be responsible for the care, custody, and control of the Terminal Spares Inventory; provided, however, a portion of the Terminal Spares Inventory shall be assigned by Customer to Seller from time to time for purposes of conducting troubleshooting and repairs of units in Seller's service center.

**2.3.4** Seller shall update software included in the Terminal Spares at the same time as software updates are applied to the Terminal

## **EXHIBIT A**

Equipment in accordance with the applicable subsection of Section 2.6.

**2.3.5** Seller will support provisioning (i.e. stocking of replacement parts and providing maintenance and repair services) of Terminal Equipment for a period of five (5) years after final production of the respective model of Terminal Equipment for which production has terminated. Terminal Equipment manufactured by third parties will be supported in accordance with the individual manufacturer's provisioning policy. Seller will utilize commercially reasonable efforts to assure third party spare parts and equipment availability to support its maintenance obligations under this TMA. Seller shall not be liable to Customer for third party spare parts and equipment obsolescence or unavailability under this TMA beyond commercially reasonable efforts.

**2.3.6** Upon termination of this TMA, regardless of the reason for termination, all Terminal Spares that are in the possession of Seller at the time of termination shall be delivered to Customer. Upon delivery by Customer of a notice of termination to Seller, Seller shall cease ordering, and cancel such orders which can be cancelled for, any replacement parts to be placed in the Terminal Spares inventory except as authorized by Customer or as needed to complete any repairs or maintenance of Terminal Equipment which are to be completed prior to the date of termination or as otherwise authorized by Customer.

### **2.4 Working Hours**

Working Hours are defined as 8:00 a.m. to 5:00 p.m. Central Time, Monday through Friday. For the purposes of this TMA, the following shall be considered holidays:

- New Year's Day (January 1)
- Memorial Day (Last Monday of May)
- Independence Day (July 4)
- Labor Day (First Monday of September)
- Thanksgiving Day (Last Thursday of November)
- Christmas Day (December 25)

Work performed outside of Working Hours at Customer's written request is defined as "emergency service" and will be performed at Demand Service Rates.

### **2.5 Demand Services**

**2.5.1** Demand Services Defined.

## **EXHIBIT A**

“Demand Services” shall mean:

- (i) A service request for the repair or maintenance of Terminal Equipment that is not described elsewhere in this TMA;
- (ii) The installation, removal, or reinstallation of Terminal Equipment not associated with repair/maintenance efforts as defined in this TMA;
- (iii) Service work performed on Terminal Equipment necessary because of intentional or negligent actions taken by a person not under the control of Seller resulting in damage to the Terminal Equipment.

### **2.5.2 Minimum Demand Services Charge**

Charges for performance of Demand Services performed pursuant to Section 2.5.1(ii) shall be at the rates listed in Addendum I, Terminal Maintenance Rates (“Addendum I”), attached to this TMA. Charges for Demand Services performed pursuant to Section 2.5.1(iii) shall be at the hourly rate for Demand Services set forth in Section D of Addendum I, plus the cost of any required parts. Work not otherwise expressly covered by this TMA or defined as a Demand Service will be performed at Seller’s then current rate charged to other customers for such service subject to the limitations set forth in Addendum I. Seller will charge a minimum of ½ hour (0.5 hour) for any Demand Services action requiring less than 30 (thirty) minutes. Additional time is charged in ½ hour increments.

### **2.5.3 Start Time for Demand Services Charge**

Seller starts charging Demand Services travel time based on the lesser of a) the time to travel to Customer’s location if traveling from Seller’s Facility or b) the time to travel to Customer’s location if traveling from the technician’s previous work location. Travel time after the end of a Demand Services call will be the lesser of a) the time to travel from Customer’s location to Seller’s Facility or b) the time to travel from the Customer’s location to the next Customer location. If Seller’s technician leaves the Demand Services call and is routed to a location other than Customer’s, then no return travel time is charged to Customer.

### **2.5.4 Charges for Travel Time and Mileage on Demand Services Work**

- (i) Seller shall not charge any mileage fees for Demand Services work.

## **EXHIBIT A**

- (ii) Seller may charge travel time for technicians called out to perform Demand Services at the hourly rate set forth in Section D of Addendum I.

### **2.5.5 Prior Customer Approval Required for Demand Services Work**

Customer has the right to request a quote for any requested Demand Services. Seller shall provide such quotes on a firm/fixed price basis, if possible. In cases where a firm fixed price quote is not possible, Seller shall provide the best possible estimation of charges based on the work scope requested and as understood, with the understanding that Seller may revise such estimate as needed during the progress of the work. Customer shall be under no obligation to pay for Demand Services unless authorized in writing by Customer pursuant to either a) a Purchase Order received by Seller for the amount quoted by Seller, or b) a written authorization to proceed received by Seller based on a quote received from Seller; the written authorization to be provided either by e-mail, facsimile, or hand delivery to Seller's Shop Manager or via USPS mail delivery.

### **2.5.6 Customer Appeal of Charges or Rejection of Work performed as Demand Services by Seller**

Should Customer have questions about the labor or parts charges for a Demand Services work effort, Customer should notify Seller's Shop Manager in writing via e-mail as to their contest or appeal of Demand Services charges incurred. Seller will review Demand Services charges for labor and parts with Customer to reach a mutual agreement. Seller's Shop Manager may make adjustment to Demand Services invoices if charges are substantiated by Seller to Customer.

### **2.5.7 Repair of Certain Damaged Terminal Equipment**

Customer shall pay both the hourly rate for Demand Services as well as the cost of replacement parts for Demand Services performed pursuant to Section 2.5.1(iii).

## **2.6 Terminal Maintenance Responsibilities**

### **2.6.1 Warranty Period Repair**

During the Term of this TMA, Seller will provide corrective repairs to Seller manufactured Terminal Equipment at the rates listed in Addendum I, which shall include the labor and parts to complete bench level repairs of the Terminal Equipment at Seller's Facility.

## **EXHIBIT A**

During the Warranty Period there is no charge for corrective repairs.

**2.6.1.1** Customer may request that Seller add equipment from other manufacturers. Seller will advise Customer if the other manufacturers' equipment can be added to this TMA, and, if acceptable, Seller will provide a quoted price to include that equipment in this TMA.

### **2.6.2 Warranty Period Maintenance**

During the Warranty Period, Seller shall perform the following additional maintenance services for Customer:

**2.6.2.1** On-site First Echelon troubleshooting for fixed price per unit/per month as indicated for mobile radios in Addendum I.

**2.6.2.2** Annual Preventive Maintenance service for fixed price per unit/per month as indicated in Addendum I. This optional service also includes installation of updates to terminal radio software to the latest released version. This optional service also includes a one-time per year update to the radio programming personality. See details in Section 2.6.4 below.

### **2.6.3 Harris Local Bench Repair For Portables – After Warranty Period Ends**

Following the end of the Warranty Period, Seller will provide corrective Local Bench Repairs at Seller's Facility for Customer's portable terminals. Customer will be responsible for conducting First Echelon troubleshooting to isolate and correct users portable radio operation issues. Customer will deliver the defective items to Seller's Facility for bench repairs. Seller shall also perform the following additional services under this Section 2.6.3 relating to Customer's portable radio units:

**2.6.3.1** Pickup & Delivery service during the Term of this TMA for fixed price per unit / per month as indicated in Addendum I.

**2.6.3.2** Annual Preventive Maintenance service for fixed price per unit / per month as indicated in Addendum I. This service, also includes, as detailed in Section 2.6.6, below, (i) installation of updates to terminal radio software to the latest released version and (ii) a one-time per year update to the radio programming personality.



## **EXHIBIT A**

### **2.6.4 Harris First Echelon Repair for Mobiles– After Warranty End**

Following the end of the Warranty Period, Seller will perform First Echelon Troubleshooting relating to Customer's mobile radio units, which is defined as the initial service touch of Customer's mobile mounted radio equipment, whereby Seller's personnel will conduct the initial troubleshooting effort to isolate the defective items. This troubleshooting will occur at either Seller's Facility or at Customer's location. Seller will troubleshoot the problem unit, identify the defective part, replace the defective component(s) with spares from Customer's Terminal Spares Inventory, and return the operator's unit to full functionality. Seller is responsible for delivery of the defective items to Seller's Facility for bench troubleshooting and repair. Repaired units will be returned by Seller to Customer's Terminal Spares Inventory.

Seller shall also perform Annual Preventive Maintenance service for the fixed price per unit/per month set forth in Addendum I. This service includes, as detailed in Section 2.6.6, below, (i) installation of updates to terminal radio software to the latest released version and (ii) a one-time per year update to the radio programming personality and updates to equipment inventory.

**2.6.5** Seller shall repair, maintain and service all Terminal Equipment listed in Addendum II to this TMA.

**2.6.6** Seller shall perform one preventive maintenance inspection and test annually per each Terminal Equipment unit. Preventive maintenance will be as recommended by the original equipment manufacturer ("OEM") and required by applicable FCC regulations. As a minimum, such inspections and tests will be performed annually for equipment listed in Addendum II. The performance of preventive maintenance shall also be performed substantially in accordance with the detailed preventive maintenance plan in Addendum IV Section 2 – Preventive Maintenance Statement of Work.

**2.6.6.1** **Software Installation:** At the time of the preventive maintenance check of each unit, Seller shall also install the most current tested, approved and released version of terminal software applicable to Customer's system. Installation of new software at any time other than the preventive maintenance check shall be done as Demand Services.

## **EXHIBIT A**

**2.6.6.2 Personality Programming:** At time of preventive maintenance check, Seller shall install a modified or replacement programming personality into each radio if requested by Customer. Programming of new personalities at any time other than the preventive maintenance check shall be done as Demand Services.

### **2.7 Service Records**

Service Records relating to the repair and maintenance of each Terminal Equipment shall be made and retained by Seller throughout the term of this TMA. The Service Records will include, as a minimum, an updated preventive maintenance schedule, completed actions on each unit, identified issues with units requiring repair, time taken for completion of the work, and a description of the resolution of discovered issues. Copies of Service Records shall be made available to Customer not later than ten (10) business days after receipt of a written request by Seller; provided, however, the results of preventive maintenance tests and inspections shall be provided, to Customer not later than thirty (30) days of completion of such tests or inspections without the necessity of Customer requesting such records.

### **2.8 General**

All services provided under this TMA are only applicable to the Terminal Equipment listed in Addendum II to this TMA.

### **2.9 Addition of Terminal Equipment**

Customer may increase or decrease the number of units of Terminal Equipment shown on Addendum II during the Term of this TMA. Seller's service on new units of Terminal Equipment added to this TMA shall be treated as warranty service until the warranty expires on such unit, at which time the Seller will provide service for the unit depending on the type of unit it is (i.e. mobile or portable).

## **EXHIBIT A**

### **2.10 Special Conditions**

Any and all special service conditions relating to Seller's performance of services pursuant to this TMA are set forth in Addendum III "Special Conditions" attached to this TMA and incorporated herein by reference.

## **Figure 4. 3. CUSTOMER FINANCIAL OBLIGATIONS**

### **3.1 Payment Due Dates**

For the period beginning on the Commencement Date and ending the last day of the first Contract Year, Customer shall pay to Seller an amount equal to (i) the Annual Maintenance Fee set forth in Table A of Addendum I to this TMA plus (ii) the Annual Maintenance Fee for the first Contract Year divided by 365 then multiplied by the number of days within the period beginning on the first day of the Initial Term and ending on the day before the first day of the first Contract Year, which amount shall be paid not later than ten (10) business days after the Commencement Date. Customer agrees to pay the Annual Maintenance Fee as set forth in Addendum I for the second and each subsequent Contract Year not later than the first day of the respective Contract Year. Fees for Demand Services are invoiced monthly as set forth in Addendum I to this TMA and are payable not later than thirty (30) days after Customer's receipt of Seller's invoice.

### **3.2 Adjustment in Rates**

**3.2.1** Commencing with the first Renewal Term and for each Renewal Term thereafter, Seller may revise the rates set forth in Addendum I if Seller delivers to Customer written notice setting forth the amounts of the revised rates not later than ninety (90) days prior to (i) the last day of the Initial Term (with respect to rates for the first Renewal Term) or (ii) the last day of the then current Renewal Term (with respect to rates for the second and later Renewal Term) ("the Rate Notice"). Rates which have been revised in accordance with this Section 3.2 shall remain in effect for the entire Renewal Term without further adjustment. Seller shall not be authorized to adjust the rates in Addendum I, and Customer shall not be obligated to pay any adjusted rates, if Seller fails to timely deliver the Rate Notice.

**3.2.2** In the event of an increase or decrease in the number of units of Terminal Equipment for which services are provided under this TMA during the course of a Contract Year, the rates charged to Customer shall be adjusted as follows:

## **EXHIBIT A**

3.2.2.1 With respect to the Contract Year a unit which is under warranty is added, Customer will pay an amount equal to the monthly cost per unit for warranty service multiplied by the number of months remaining in the then current Contract Year;

3.2.2.2 With respect to the Contract Year in which the warranty expires on the unit, the Annual Maintenance Fee with shall be increased by an amount equal to (i) the monthly cost per unit for warranty service related to said unit multiplied by the number of months said unit will be under warranty for that Contract Year plus (ii) the monthly cost per unit for post-warranty service related to said unit multiplied by the number of months remaining in the then current Contract Year during which the unit is not under warranty; and

3.2.2.3 With respect to the deletion of units of Terminal Equipment from this Agreement during a Contract Year, Seller shall provide a credit against the amount of the Annual Maintenance Fee due for the next Contract Year in an amount equal to (i) the number of units deleted multiplied by (ii) the applicable monthly fee related to that unit multiplied by (iii) the number of months remaining in the Contract Year after the unit was removed from service under this TMA.

**3.2.3** A unit of Terminal Equipment shall be deemed added to this TMA upon the first day of the calendar month following Seller's receipt of written notice from Customer of the request to add the unit to this TMA. A unit of Terminal Equipment shall not be deemed removed from the scope of this TMA until the first day of the calendar month following Customer's delivery of written notice to Seller removing such unit and identifying the unit by model and serial number.

**3.2.4** If the addition and deletion of the Terminal Equipment from this TMA in the last Contract Year of the Term of this TMA results in a credit being due Customer which would have been applied to the Annual Maintenance Fee for the next Renewal Term but for termination of this TMA, Seller agrees to pay the amount of such credit to Customer not later than thirty (30) days after termination of this TMA. This Section 3.2.4 shall survive the termination of this TMA.

### **3.3 Limitation on Rate Adjustments**

Increases in the rates set forth in Addendum I authorized by Section 3.2, above, for each the Renewal Term shall be limited to the lesser of (a)

## **EXHIBIT A**

three percent (3%) of the rates charged during the last Contract Year of the Initial Term or the immediately prior Renewal Term, as applicable, and (b) the percentage difference between (i) the Consumer Price Index – All Items for Dallas/Fort Worth (“CPI-U – DFW”) published by the U.S. Department of Labor – Bureau of Labor Statistics for the month which is published not later than 120 days prior to the end of the Initial Term or the then current Renewal Term, as applicable, and (ii) the CPI-U – DFW published for the same month for the calendar year prior to the CPI-U – DFW described in (i). Notwithstanding anything herein to the contrary, Seller shall not charge Customer rates for parts sold and services performed pursuant to this TMA greater than the rates that Seller charges for like quantities and like services to Seller’s other customers who are members of the North Central Texas Council of Governments. Nothing herein shall require Seller to increase the rates herein for the full amount of increase to which Seller may be entitled.

### **3.4 Late Payments**

Except as set forth in Section 3.2, above, payments for services provided pursuant to this TMA are due within thirty (30) days of receipt of Seller’s invoice. All payments not made by Customer on or before the thirtieth (30<sup>th</sup>) day after the payment is due under this TMA shall bear interest commencing on the 31<sup>st</sup> day at the lesser of (i) one and one-half percent (1.5%) per month or (ii) the maximum rate allowed by law.

### **3.5 Non-Appropriation**

Failure of Customer to appropriate sufficient funds for any Contract Year to pay Customer’s obligations hereunder shall result in termination of this TMA at the end of the then current Contract Year. Customer shall provide written notice to Seller of such non-appropriation as soon as reasonably possible. Customer shall pay Seller for all goods and services performed by Seller that are not in dispute prior to the date of termination of this TMA under this Section 3.5. Customer shall pay Seller for any disputed amounts, if applicable, after such dispute is mutually resolved, and this Section 3.5 shall survive the termination of this TMA for such purpose. Seller agrees that in the event of termination of this TMA under this Section 3.5, Seller will use its commercially reasonable efforts to cancel all pending agreements and orders with third parties and take such other reasonable actions to reduce the amount of Customer’s remaining costs owed under this TMA as of the date of the notice of termination. Except for Customer’s obligation to pay for goods and services provided by Seller to Customer pursuant to this TMA on or before the date of termination of the TMA, Customer shall have no further obligation to Seller pursuant to this TMA following termination of this TMA pursuant to this Section 3.5.

## EXHIBIT A

### **Figure 5. 4. WARRANTY**

- 4.1** Seller warrants that all services performed under this TMA will be done in an efficient and workmanlike manner and that upon completion of such services that the Terminal Equipment on which such services were performed, if originally manufactured by Seller, will operate in accordance with the original manufacturers specifications subject to such modifications and/or enhancements in such operation by the subsequent installation of software upgrades and versions into the Terminal Equipment, in which case the Terminal Equipment shall function as set forth in Seller's technical release relating to such later software upgrades and versions. Under no circumstances will Seller's liability to Customer exceed the amounts paid by Customer under this TMA for the applicable service that causes Customer's claim. IN NO EVENT SHALL SELLER BE LIABLE TO CUSTOMER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR EXEMPLARY DAMAGES INCLUDING, BUT NOT LIMITED TO, DAMAGES RELATED TO LOSS OF PROFIT OR REVENUES, LOSS OF USE OF THE EQUIPMENT OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES, SERVICES OR REPLACEMENT POWER, DOWNTIME COSTS OR CLAIMS OF CUSTOMER'S CLIENTS, IF ANY, FOR SUCH DAMAGES. The limitation of liability for damages in this Section 4.1 does not extend or include damages to or destruction of any Terminal Equipment delivered to Seller for service or otherwise placed in the possession of Seller or Seller's employees, agents or subcontractors for purpose of obtaining services pursuant to this TMA, attributable in whole or in part to the intentional or negligent acts or omissions of Seller or one or more of its employees, agents, or subcontractors.
- 4.2** THE WARRANTY SET FORTH IN SECTION 4.1 ABOVE IS SELLER'S SOLE WARRANTY UNDER THIS TMA FOR THE SERVICES PROVIDED PURSUANT TO THIS TMA AND IS IN LIEU OF ANY AND ALL OTHER WARRANTIES WHETHER WRITTEN OR ORAL, EXPRESSED OR IMPLIED, STATUTORY OR OTHERWISE INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO SUCH SERVICES.
- 4.3 Patents, Trademarks, Information**
- 4.3.1** Nothing in this TMA shall be construed as:
- 4.3.1.1** A warranty or representation by Seller that any advice provided under this TMA is or will be free from infringement of patents or copyrights of third parties; provided, however, Seller and its employees and/or subcontractors shall at no

## **EXHIBIT A**

time provide any advice to Customer or perform any service on the Terminal Equipment which Seller and its employees and/or subcontractors know or reasonably suspect infringes on patents or copyrights of third parties against Seller, Customer, or both; or

4.3.1.2 Conferring a right to Customer to use in advertising, publicity or otherwise any trademark or trade name of Seller; or

4.3.1.3 Granting to Customer by implication, estoppel, or otherwise any licenses or rights under patents of Seller.

**4.3.2** Seller assumes no responsibilities whatsoever with respect to the use by Customer or any third party of any information obtained by Customer or third party under this TMA with respect to any use, sale or other disposition by Customer or its clients or other transferees of any products incorporating or made by use of the information obtained under this TMA.

### **4.4 General**

**4.4.1** Customer understands and acknowledges that radio systems are subject to degradation of service from natural phenomena such as so-called "skip" interference, motor ignition and other electrical noise, interference from other users assigned by the FCC to the same or adjacent frequencies, and other causes which are beyond the reasonable control of Seller. Customer agrees Seller cannot be responsible for such degradation, interference or disruption of service caused by operation of other radio systems or by natural phenomena or by motor ignition or other interference over which Seller has no reasonable control. Such foregoing interference and noise might be minimized by the addition at Customer's expense of corrective devices adapted for particular locations and installations. Upon the written request of Customer, Seller will investigate interference complaints (at the rates specified in Addendum I to this TMA) and make recommendations as to the use of such devices; however, total freedom from noise and interference cannot be guaranteed. Notwithstanding the foregoing, with respect to radio systems designed and installed by Seller for third parties after the installation of Customer's system, Seller shall, at Seller's expense, provide such corrective devices and other adjustments to Customer's system if the interference with Customer's system is determined to be from such later installed radio system. Such adjustments to Customer's system shall not result in a loss of coverage as originally designed.

**4.4.2** Seller does not assume responsibility for signal strength unless the deficiency is the result of substandard equipment maintenance or any

## **EXHIBIT A**

other act or omission of Seller or subcontractors or any of their respective personnel.

- 4.4.3** If, due to the action of regulatory authorities, changes to the Terminal Equipment become necessary, such changes will be performed by Seller upon request at the expense of Customer.

### **Figure 6. 5. TERM AND TERMINATION**

#### **5.1 Initial Term**

The services under this TMA will be provided by Seller to Customer beginning on the Commencement Date and ending on the last day of the calendar month following the fifth (5<sup>th</sup>) anniversary of the Commencement Date (the "Initial Term").

#### **5.2 Renewal Term**

The Term of this TMA shall be automatically extended at the end of the Initial Term for an additional one (1) year and on a succeeding yearly basis thereafter (each such extension of the Term being referred to herein as "Renewal Term") unless either Party notifies the other Party, in writing not less than sixty (60) days prior to the end of the Initial Term or the Renewal Term then in effect that the Term shall not be extended.

#### **5.3 "Term" Defined**

The phrases "Initial Term" and "Renewal Term" as used in this TMA shall collectively be referred to herein as "Term."

#### **5.4 "Contract Year" Defined**

For purposes of this TMA, the phrase "Contract Year" means (i) with respect to the first Contract Year, the period beginning on the first day of the first calendar month following the Commencement Date and ending on the day prior to the anniversary of said beginning date and (ii) with respect to each subsequent Contract Year, the period beginning with the anniversary of the beginning of the first Contract Year and end on the immediately following anniversary of the end date of the first Contract Year. By way of example, if the Commencement Date is November 13, 2015, the first day of the first Contract Year would be December 1, 2015, the last day of the first Contract Year would be November 30, 2016, the first day of the second Contract Year would be December 1, 2016, the last day of the second Contract Year would be November 30, 2017, the first day of the third Contract Year would be December 1, 2017, the last day of the third Contract Year would be November 30, 2018, and so on.



## **EXHIBIT A**

### **5.5 Customer Default for Non-Payment**

If Customer fails to pay Seller any undisputed amounts on or before the fortieth (40<sup>th</sup>) day after such amount is due, Seller may suspend the provision of services under this TMA not earlier than five (5) days after providing written notice to Customer of Seller's intent to suspend services until such undisputed amount is paid. If (i) any undisputed amount due under this TMA remains unpaid on or before the 75<sup>th</sup> day after such amount is due, and (ii) Seller has delivered to Customer the above notice relating to suspension of services, and (iii) Seller has, in fact, suspended its services hereunder to Customer, Seller may elect to terminate this TMA not earlier than the fifteenth (15<sup>th</sup>) day after delivery of written notice to Customer of Seller's election to terminate this TMA provided that Customer has not prior to the date of termination paid to Seller all undisputed amounts plus accrued late payment interest. In the event of termination of the TMA pursuant to this Section 5.5, Customer shall be entitled to a refund of a prorated amount of the Annual Maintenance Fee paid for the then current Contract Year calculated in the same manner as the refund in Section 5.6, below, which amount may be offset against any undisputed amount plus accrued late payment interest remaining unpaid as of the termination date.

### **5.6 Seller's Default**

In the event of a material breach of this TMA by Seller which shall continue for thirty (30) days after written notice of such material breach (including a reasonably detailed statement of the nature of such breach) shall have been given to Seller by Customer, Customer shall be entitled to avail itself cumulatively of any and all remedies available at law, in equity, or otherwise (provided such remedies are not otherwise limited under the terms of this TMA) and either: (1) suspend performance of its payment obligations under this TMA for as long as the breach continues uncorrected; or (2) terminate this TMA by written notice to Seller if the breach remains uncorrected. Each of the following shall constitute material breaches of this Agreement:

**5.6.1** Violation by Seller of any State, Federal or local law, or failure by Seller to comply with any applicable State and/or Federal service standards, as expressed by applicable statutes, rules and/or regulations.

**5.6.2** Failure by Seller to carry applicable licenses or certifications as required by law; and

**5.6.3** Failure of Seller to perform the services described in this TMA absent an event of Force Majeure.

## **EXHIBIT A**

In the event Customer terminates this TMA pursuant to this Section 5.6, not later than thirty (30) days after such termination date, Seller shall refund to Customer the unearned portion of the Annual Maintenance Fee in an amount equal to (i) the amount of the Annual Maintenance Fee paid for the then current Contract Year, (ii) divided by 365 and then (iii) multiplied by the number of days remaining in the then current Contract Year after the termination date. The amount of such refund shall accrue interest beginning after the thirtieth (30<sup>th</sup>) day after the termination date at the highest rate allowed by law if Seller fails to pay such refund by that date.

### **5.7 Termination Following Force Majeure**

If Seller is unable to perform the services described in this TMA following a Force Majeure Event, or is otherwise unable to procure such services from a third party who Seller has certified as authorized to perform work on the Terminal Equipment without voiding any warranty made to Customer, and such inability continues for a period of thirty (30) days, Customer shall have the right to terminate this TMA upon providing Seller written notice of termination, in which case this TMA shall be immediately terminated. If Customer terminates this TMA pursuant to this Section 5.7, Customer's remedies shall be limited to a refund of the unearned portion of the Annual Maintenance Fee in an amount equal to (i) the amount of the Annual Maintenance Fee paid for the then current Contract Year, (ii) divided by 365 and then (iii) multiplied by the number of days remaining in the then current Contract Year after the termination date. The amount of such refund shall accrue interest beginning after the sixtieth (60<sup>th</sup>) day after the termination date at the highest rate allowed by law if Seller fails to pay such refund by that date.

## **Figure 7. 6. LIMITATION OF LIABILITY**

### **6.1 Limits on Damages**

Except for Seller's liability to third parties for its willful misconduct or negligent acts or omissions as more particularly described in Section 7 "Indemnification and Hold Harmless," below, 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 TMA 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 pursuant to this TMA, shall not exceed the greater of (a) the total amount paid by Customer to Seller pursuant to this TMA or (b) the limits of Seller's insurance coverage.

## EXHIBIT A

### **6.2 Special, Consequential, Etc. Damages**

IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR INFRINGEMENT), STRICT LIABILITY OR OTHERWISE, SHALL EITHER PARTY, OR ITS SUBCONTRACTORS OR SUPPLIERS, BE LIABLE TO THE OTHER PARTY 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.

### **6.3 Third Party Damages**

**6.3.1** Seller shall not be liable for costs incurred for repair and/or replacement of Terminal Equipment that fails or becomes inoperative due to negligence on the part of a user other than Seller or Seller's employees or contractors, liquid intrusion not caused by the negligent or intentional acts or omissions by Seller or Seller's employee or contractors, lightning damage, installations or removals performed by third parties not employed or otherwise hired by Seller, and/or acts of God, acts of terrorism or work performed by third parties not authorized by Seller to perform work on Seller equipment.

**6.3.2** Seller shall not be liable for costs incurred for correcting, replacing or repairing equipment damaged and/or data corruption induced and/or caused by third party personnel not hired by Seller to perform such correction, replacement, or repair or other equipment/systems not provided by or under the direction of Seller.

### **6.4 Other Agreements**

The provisions of this Section 6, LIMITATION OF LIABILITY, shall apply notwithstanding any other provisions of this TMA

### **6.5 Survival**

The provisions if this Section 6, LIMITATION OF LIABILITY, shall survive the expiration or termination of this TMA.

### **6.6 Force Majeure Event.**

Neither Party shall be liable for delays in delivery or failure to perform due directly or indirectly to (1) causes beyond a Party's reasonable control, (2) Acts of God, acts (including failure to act) of any governmental authority, wars (declared

## EXHIBIT A

or undeclared), riots, revolutions, strikes or other labor disputes, fires, floods, sabotage, nuclear incidents, earthquakes, storms, epidemics, or (3) Seller's inability to timely obtain necessary materials, items, components or services from suppliers who are affected by the foregoing circumstances (each being a "Force Majeure Event"). Upon the occurrence of a Force Majeure Event, Seller and Customer (as the case may be) shall as soon as practical after the onset of the Force Majeure Event, notify the other Party of such event and shall, at the same time or at the earliest practical date after such notice, specify the date such performance shall occur or recommence. Subject to Section 5.7 of this TMA, in the event of such delay or failure, the time for performance shall be extended for a reasonable time period to compensate for the time lost by the Party by reason of the Force Majeure Event.

### **Figure 8. 7. INDEMNIFICATION AND HOLD HARMLESS**

#### **7.1 Indemnification**

**Seller shall be responsible for and agrees to INDEMNIFY, HOLD HARMLESS and DEFEND Customer, its governing body, boards, commissions, agencies, officers and employees (collectively "the Indemnified Parties") from and against all liability, losses, damages, harm, judgments, proceedings, suits, liens, penalties, fines, fees (including reasonable attorneys fees), costs or expenses which the Indemnified Parties (or any of them) may sustain, incur or be required to pay by reason of third party claims, demands and/or causes of action for damages resulting from personal injuries, loss of life or damage to or destruction of tangible property, (collectively "Claims") resulting from, caused by, or relating to the willful misconduct or negligent acts or omissions of Seller or of any of Seller's officers, agents, employees, or subcontractors in performance of or otherwise in connection with this TMA (and including all of Seller's work and services as set forth herein). SUCH INDEMNITY, HOLD HARMLESS, AND DEFENSE OBLIGATION SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF ANY INDEMNIFIED PARTIES, OR CONDUCT BY ANY INDEMNIFIED PARTIES THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND. However, Seller's liability under this clause shall be reduced by that portion of the total amount of the Claims (excluding defense fees and costs) equal to the Indemnified Parties' proportionate share of the negligence or gross negligence, or conduct that would give rise to strict liability of any kind that caused the Claim. Likewise, Seller's liability for the Indemnified Parties' defense costs and attorneys' fees shall be reduced by that portion of the defense costs and attorneys' fees equal to the Indemnified Parties' proportionate share of the negligence, or conduct that would give rise to strict liability of any kind, that caused the loss.**

Figure 9.

#### **7.2 Notice of Claim**

## **EXHIBIT A**

Customer agrees to notify Seller in writing as soon as practical of any third party claim, demand or cause of action for which any of the Indemnified Parties will request indemnification from Seller. The Indemnified Party(ies) seeking indemnification and a defense from Seller pursuant to Section 7.1 must 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 section and Section 7.1, above, shall survive the expiration or termination of this TMA. Notwithstanding anything to the contrary herein, Seller understands, acknowledges, and agrees that this TMA contains no obligation of Customer to indemnify, defend, or hold harmless Seller, its officers, directors, employees, shareholders, partners, contractors, subcontractors, or affiliates under any circumstances arising from or related to the performance of this TMA. Nothing in this section or Section 7.1, above, shall be deemed an admission or waiver of any immunity from liability. Further, nothing in this TMA shall be read to grant rights or benefits to third parties.

**EXHIBIT A**

**Figure 10. 8. GENERAL PROVISIONS**

**8.1 Notices.**

Notices and other communications between the Parties shall be transmitted in writing by (i) United State Postal Service via certified mail, return receipt requested, or (ii) hand delivery or (iii) nationally recognized overnight courier service (e.g. United Parcel Service, Federal Express, DHL, or similar service) to the Parties at the addresses set forth below and shall be deemed effective upon (1) receipt by the receiving Party, if hand delivered or sent by nationally recognized courier service, or (2) five (5) business days after placement in a receptacle of the United States Postal Service, if sent by certified mail, return receipt requested. Either Party may change its address by giving notice in writing thereof to the other Party.

**Seller:**

Director, Field Services  
Harris Corporation  
221 Jefferson Ridge Parkway  
Lynchburg, Virginia 24501

**Customer:**

Paul Spencer  
Town of Addison  
Police Chief  
4799 Airport Parkway  
Addison, TX 75001

**With copy to:**

Regional Manager  
Harris Corp  
8105 N. Belt Line Road, Suite  
170  
Irving, Texas 75063-6070

**With copy to:**

Brenda N. McDonald  
Messer, Rockefeller & Fort, PLLC  
6351 Preston Road, Suite 350  
Frisco, Texas 75034

**8.2. Entire Agreement; No Third Party Beneficiaries**

The entire agreement of the Parties is contained herein (inclusive of the Exhibits attached hereto), and this TMA supersedes any and all oral agreements and negotiations between the Parties relating to the subject matter hereof. Except as stated herein to the contrary (including the indemnity, hold harmless, and defense provisions included in Section 7, above), this TMA is solely for the benefit of the Parties hereto and is not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

**8.3. Amendment**

The Parties expressly agree that this TMA shall not be amended in any manner except in a writing(s) executed by authorized representatives of the Parties.

## **EXHIBIT A**

### **8.4 Severability**

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

### **8.5 Waiver**

No provision of this TMA may be waived except in a writing signed by the Party waiving enforcement. No provision of this TMA 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 TMA constitute or be construed as a waiver by Customer of any breach of the covenants of this TMA or a waiver of any default of Seller and the making of any such payment by Customer while any such default or breach shall exist shall in no way impair or prejudice the right of Customer with respect to recovery of damages or other remedy as a result of such breach or default.

### **8.6 Headings; “Includes”**

Section headings are inserted for convenience only and shall not be used in any way to construe the meaning of terms used in this TMA. As used in this TMA, the words “includes” and “including” are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

### **8.7 Governing Law**

The Parties expressly understand and agree that in the event of any disagreement or controversy between the Parties, the laws of the State of Texas shall be controlling without regard to the application of any conflict of laws statutes. Venue for any legal proceedings shall be in a state court in Dallas County, Texas, except where federal law places exclusive jurisdiction of the matter in controversy in a federal court, in which case venue shall be in the United States District Court for the Northern District of Texas – Dallas Division.

### **8.8 Assignment; Successors and Assigns**

**8.8.1** Except as provided herein, this TMA shall not be assigned nor any interest or obligation in this TMA transferred by either Party without the written consent of the other Party, which shall not be unreasonably withheld or delayed.

**8.8.2** Notwithstanding Section 8.8.1, above,

## **EXHIBIT A**

- A. Seller may assign this TMA, without consent, (a) in whole or in part, to an affiliate of Seller 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. For purposes hereof, "affiliate" means all persons, corporations, or other entities which control Seller, and (ii) all persons, corporations or other entities under the control of Seller. As used in this paragraph A, the definition of affiliate, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, corporation, or other entity, whether through ownership of voting securities or partnership interests, by contract, or otherwise without the consent or approval of any other person or entity.
  
- B. In addition, Seller may also assign or transfer, without consent, claims for money due or to become due Seller from Customer under this TMA 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 TMA.

**8.8.3** Any Party making an assignment of all or any portion of this Agreement shall promptly provide the other Party written notice of any such permitted assignment or transfer. Regardless of whether or not an assignment by a Party requires the consent of the other Party, no assignment authorized pursuant to this Agreement shall be effective and enforceable as to the other Party unless such assignment is in writing, signed by the assignor and assignee(s), and includes an agreement by the assignee to assume without amendment all duties and obligations of the assignor as set forth in this Agreement, and a copy of the assignment is delivered to the Party who is not a party to the assignment.

### **8.9 Attachments and Addenda**

All exhibits, attachments, and addenda referenced in this TMA and attached hereto are incorporated into this TMA as if fully set forth herein and constitute additional terms and conditions of this TMA.



**EXHIBIT A**

## **EXHIBIT A**

### **8.10 Counterparts**

This TMA may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

### **8.11 Effective Date**

This TMA shall be effective upon the date it bears the signatures, whether in the same original document or in counterparts, of the authorized representatives of the Parties (“the Effective Date”).

*(Signatures on following page)*

**EXHIBIT A**

SIGNED AND AGREED this \_\_\_\_ day of \_\_\_\_\_, 2015.

**SELLER:**

**HARRIS CORPORATION -  
RF COMMUNICATIONS DIVISION**

By: \_\_\_\_\_  
Christopher W. Chaffee,  
Senior Manager, Contracts

SIGNED AND AGREED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**CUSTOMER:**

**TOWN OF ADDISON**

By: \_\_\_\_\_  
Charles W. Daniels,  
Interim City Manager

**ATTEST**

\_\_\_\_\_  
Laura Bell, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Brenda N. McDonald, City Attorney

## Figure 11. ADDENDUM I - TERMINAL MAINTENANCE RATES

### A. Harris Local Bench Repair Rates

A
B
C
D
E
F
G
H
I
J
K
L
M

#### Comments:

Cell: C4 - PD = 15 - FD = 15 - PW = 35	Cell: E4 - PD = 75 - FD = 32
Cell: H4 - PD = 30	Cell: I4 - PD = 5 - FD = 12
Cell: J4 - ? = 3	

### B. First Echelon Repair Rates

<b>REFERENCE SECTION 2.6.2 - WARRANTY</b>					
<b>REFERENCE SECTION 2.6.3 - LOCAL BENCH FOR PORTABLES</b>					
<b>REFERENCE SECTION 2.6.4 - FIRST ECHELON FOR MOBILES</b>					
<i>Pricing Shown is Per Unit / Per Month</i>					
<b>Terminal Model</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
XG-25 Portable	Warranty	Warranty	\$ 4.65	\$ 4.79	\$ 4.93
XG-75 Portable	Warranty	Warranty	\$ 4.65	\$ 4.79	\$ 4.93
XG-100 Portable	Warranty	Warranty	Warrant y	\$ 6.39	\$ 6.58
XG-25 Mobile	\$ 5.04	\$ 5.19	\$ 15.41	\$ 15.88	\$ 16.35
XG-75 Mobile	\$ 5.04	\$ 5.19	\$ 15.41	\$ 15.88	\$ 16.35
XG-100 Mobile	\$ 5.04	\$ 5.19	\$ 5.35	\$ 20.36	\$ 20.97
CS-7000 Control Station - Includes Radio	\$ 11.74	12.09	\$ 35.57	\$ 36.64	\$ 37.74

Annual Preventive Maint + S/W Upgrade + Personality Update	\$ 4.17	\$ 4.30	\$ 4.43	\$ 4.56	\$ 4.70
Pickup / Delivery Service	\$ 1.33	\$ 1.33	\$ 1.33	\$ 1.33	\$ 1.33
Personality Management by Harris	\$ 0.67	\$ 0.67	\$ 0.67	\$ 0.67	\$ 0.67

**C. UNUSED AND RESERVED**

**D. DEMAND SERVICE RATES**

Hourly Rate (normal Working Hours):           \$100.00            
Hourly Rate (Nights & Saturday):           \$150.00            
Hourly Rate (Sunday & Holidays):           \$150.00            
Mobile/Portable Radio Reprogramming: Price quoted on a per occurrence basis.

**E. OTHER SUBCONTRACTED SERVICES**

Service provided by third party vendors performing Demand Services labor at the request of Customer will be provided at cost plus 15%.

## ADDENDUM II - EQUIPMENT LIST

### A. TERMINAL EQUIPMENT:

Radio Model #	Qty.	
XG-25P	65	Portable Radio
XG-75P	0	Portable Radio
XG-100P	107	Portable Radio
XG-25M	0	Mobile Radio
M7300	30	Mobile Radio
XG-100M	17	Mobile Radio
CS-7000	3	Control Station with:
	M7300	3 each Mobile Radio

<End of List>

### TERMINAL SPARES

*\*Terminal Spares purchased by Customer may be designated and tracked separately by serial number, or at Customer discretion may be included in the inventory in Addendum II – Equipment List – Section A – Terminal Equipment. Terminal Spares will be maintained per all terms and conditions stated for actively used equipment covered in Section A inventory.*

## ADDENDUM III - SPECIAL CONDITIONS

### 1.0 Maintenance Exclusions

The items identified below are covered by Seller during the Warranty Period provided they have been supplied and installed by Seller. Following the end of the Warranty Period, the items identified below are specifically excluded from coverage from this TMA, unless otherwise noted in Addendum II (A) Terminal Equipment List or as later agreed in writing. Customer may request services on the items identified below at the then current Demand Services Rates listed in Addendum I – Section D.

#### 1.1 Portable Equipment

Customer shall be responsible for repair and replacement of the following portable radio equipment after the end of the items' Warranty Period:

- Personal audio accessories (headset, ear piece),
- carrying cases and devices,
- batteries and antennas

#### 1.2 Mobile Equipment

Customer shall be responsible for repair and replacement of the following mobile radio equipment after the end of the items' Warranty Period:

- Antennas
- Power Cables
- Control Head to T/R package cables for remote mount units
- Fuses & Fuse Holders
- Audio Accessories (microphone, headset, ear piece)
- Any issues related to vehicular power systems
  - Voltages out of radio specification range
  - Voltage spikes

#### 1.3 Control Stations

Customer shall be responsible for repair and replacement of the following control station radio equipment after the end of the items' Warranty Period:

- Antenna systems (antenna, feedline & PolyPhaser)
- Audio Accessories (microphone, headset, ear piece)

### 2.0 Additions / Deletions to Addendum II – Equipment List

Customer may add or delete equipment items to the list of maintained equipment by notifying Seller in writing. As additional items are purchased they will be added to this TMA at time of the annual Renewal Period and per terms of Section 2.6.1.1. Any changes to this TMA will be through an Amendment document

completed by Seller and provided to Customer for review, approval and signature. The Amendment document will provide revised equipment lists, revised pricing structure changes and any necessary changes to fully incorporate the additional items into the TMA.



## **ADDENDUM IV - WARRANTY/MAINTENANCE SUPPORT STATEMENT OF WORK**

The Addendum IV sets forth Seller's maintenance obligations, exclusions, and additional options available to Customer pursuant to this TMA. Descriptions of obligations and exclusions under the requested options and Demand Services require Customer to purchase those options.

### **1.0 Local Support**

Seller maintains a 10,500 square foot Regional Service Center located in Irving, Texas ("Sellers' Facility"). Seller's Facility supports Seller's staff of service managers, project managers, engineers and technicians, who are responsible for supporting all of Seller's customers within a multi-state region in the western United States of America. Seller's Facility has a repair depot for local repair of Seller's mobile and portable radio equipment, an equipment staging area, spare parts warehouse, drive in service bay and office space.

### **2.0 Depot Maintenance**

Seller's Depot Repair and Return Facility ("R&R") is located in Forest, Virginia and is staffed with certified Master Technicians. A "Master Technician" means a person who has completed all Seller-required technical training course on the equipment being serviced. Seller's Facility and the R&R are ISO 9001: 2000 and Factory Mutual Certified. State-of-the-art test equipment and certified Master Technicians verify all repairs meet or exceed prescribed specifications.

### **3.0 Terminal Radio Equipment Repair Statement of Work**

#### **3.1 Maintenance Responsibilities**

Seller's Facility technicians and staff will provide warranty and maintenance actions on all Terminal Equipment included in this TMA. Seller may subcontract some preventive maintenance services.

#### **3.2 Initiation of Terminal Service Request from Customer:**

Customer initiates a Terminal Service Request by sending an e-mail to the Harris Service Center group e-mail box [Irving.Office@harris.com](mailto:Irving.Office@harris.com) which is monitored during normal Working Hours by the Harris Service Center Shop Manager and the three Harris Service Center Field Technicians. Customer Terminal Service Request will contain:

- A. Name of Customer initiating request
- B. Customer Agency (Coppell FD, Carrollton PD, etc)
- C. Customer call back phone number
- D. Unit Number needing maintenance service
- E. Brief Problem Description

The e-mail will be replied to by the currently on-call Field Technician, copied to all other Seller personnel. Seller's on-call Field Technician will contact the initiating Customer contact within one (1) Working Hour. Example: A call initiated between 8:00 AM and 4:00 PM during a Working Day will be replied to within one hour on that day. However, a call initiated after 4:00 PM will receive a reply the next business morning prior to 9:00 AM. Any calls for terminal service received after hours or weekends will receive a reply the next business morning prior to 9:00 AM.

### **3.3 Maintenance Logs**

Seller shall utilize its existing ticket tracking system to log all requests for service and all service actions taken. Seller's technicians open a ticket when any service request from Customer is initiated. Seller's technicians will update that ticket as the troubleshooting process proceeds until completion. Data is entered into the ticket to record Customer's initial service request, call back and on-site arrival times, troubleshooting completion times, actions taken during the troubleshooting process, parts utilized and final outcome of the troubleshooting process. Service reports as defined below will be extracted from this ticket system to provide the required reports.

### **3.4 Service Reports**

Seller shall submit the following service reports by the tenth (10th) day of each month for the previous month's service:

- A. Monthly service activity, including model number, serial number, work performed, corrective action.
- B. Mutually agreed metrics.

### **3.5 Terminal Spares**

Customer shall purchase the Terminal Spares as indicated in the recommended spare parts list provided with the System Purchase Agreement. Terminal radios spare parts will be stored at Customer's facility. Customer is responsible for tracking the inventory of their Terminal radio equipment spares.

### **3.6 Tech-Link Support Services**

The Tech-Link website offers electronic retrieval/exchange of technical information, which allows subscribers to:

- A. Search Seller technical libraries
- B. Read current software release notes
- C. Request technical assistance from TAC
- D. Participate in User Forums
- E. Technical Service Memos
- F. Subscription to Tech-Link is an included service with purchase of the Software FX Agreement.

### **3.7 Terminal Equipment Service Ticket Initiation Process**

To ensure compliance with service ticket requirements, Seller will respond utilizing the following escalation procedure:

#### **3.7.1 Reference services provided by the Local Bench Repair service option:**

- A. Customer may drop off and pickup Terminal Equipment for repair at Seller's Facility.
- B. Seller will perform once a week pickup and delivery service at Customer's designated facility. Any items for repair will be picked-up and any items that have been repaired will be delivered to Customer for return to their spares inventory.
- C. During the equipment Warranty Period, there is no charge for break/fix repairs. Customer may request that Seller re-program radios to make changes to operational features or functions in the programming personality. Such re-programming is not a warranty service and will be provided as a Demand Service by Seller to Customer.

#### **3.7.2 Reference services provided by the First Echelon Repair service level:**

- A. Customer may drop off and pickup Terminal Equipment for repair at Seller's Facility.
- B. Customer may bring mobile radios to Seller's Facility for troubleshooting and repair by Seller's technicians.
- C. Customer may initiate a service request to Seller for on-site service at Customer location. Seller will respond and be on-site to service the vehicle or item requested not later than three (3) business days (24 working hours). Please see Addendum IV under the subsection Maintenance Responsibilities, Initiation of Terminal Service Request from Customer.
- D. During the equipment Warranty Period, there is no charge for break/fix repairs. Customer may request that Seller re-program radios to make changes to operational features or functions in the programming Personality. Such re-programming is not a warranty service and will be provided as a Demand Service by Seller to Customer.

### **4.0 Preventive Maintenance Statement of Work**

Seller shall perform annual preventive maintenance ("PM") on all Seller supplied Terminal Equipment as listed in Addendum II.

Seller shall perform preventive maintenance inspections and tests as recommended by the Harris Maintenance Manuals, using the most current revision applicable to the model(s) of equipment being serviced. Documentation of PM services will include measured values of all FCC required performance criteria and other parameters measured per the specifications in the Maintenance Manuals.