

# MOTOROLA LOGGING RECORDER SYSTEM

## NICE LOGGING SOLUTION



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# TABLE OF CONTENTS

## Section 1

System Description .....	1-1
1.1 System Overview.....	1-1
1.1.1 Primary Offering (NRX, Inform, QA, Storage Center, AQUA, Text to 911) .....	1-1
1.1.1.1 Analog NRX Logging Recorder .....	1-1
1.1.1.2 Inform Expansion and Upgrades.....	1-2
1.1.1.3 Hardware and Software Additions .....	1-2
1.1.1.4 Training.....	1-2
1.1.2 Screen Recording Option.....	1-2
1.1.2.1 Screen Recording Server.....	1-2
1.1.3 Parallel NRX Recorder Bundle Option .....	1-2
1.1.4 Playback Workstation Option.....	1-3
1.2 NICE Solution System Architecture .....	1-3
1.3 NICE Inform and Suite of Applications.....	1-3
1.3.1 RECONSTRUCTION.....	1-5
1.3.2 ORGANIZER .....	1-6
1.3.3 MONITOR APPLICATION .....	1-9
1.3.4 INFORM MEDIA PLAYER .....	1-9
1.3.5 VERIFY .....	1-11
1.3.6 USER ADMINISTRATION .....	1-11
1.3.7 SYSTEM ADMINISTRATION .....	1-12
1.3.8 ALARM NOTIFICATION AND TIME SYNCHRONIZATION .....	1-13
1.3.9 QUALITY MANAGEMENT.....	1-14
1.3.10 SCREEN RECORDING .....	1-14
1.3.11 TEXT TO 9-1-1 .....	1-15
1.4 NEXT GEN 9-1-1.....	1-15

## Section 2

Statement of Work .....	2-1
2.1 Motorola Responsibilities.....	2-1
2.2 CITY OF Allen Responsibilities.....	2-1
2.3 Assumptions.....	2-2
2.4 Additional NICE Assumptions and Dependencies.....	2-2
2.4.1 General.....	2-2
2.4.2 Facilities (Electrical, HVAC and Dimensions).....	2-3
2.4.3 Demarcation .....	2-4
2.4.4 Interfaces.....	2-4
2.4.5 Inform .....	2-4
2.4.6 Network .....	2-4
2.4.7 Archiving.....	2-5



2.4.8 Implementation and Cut-Over .....	2-5
2.4.9 Project Completion, Post Implementation, and Maintenance .....	2-5

## Section 3

Warranty Services .....	3-7
-------------------------	-----

## Section 4

Pricing Summary .....	4-1
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## Section 5

Contractual Documentation.....	5-1
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May 24, 2017

Deputy Chief Ken Myers  
City of Allen  
205 W McDermott  
Allen, Texas 75013

Subject: Proposal for NRX Logger with Inform

Dear Chief Myers,

Motorola Solutions, Inc. ("Motorola Solutions") is pleased to have the opportunity to provide the City of Allen with quality communications equipment and services. The Motorola Solutions project team has taken great care to propose a solution that will address your needs and provide exceptional value.

Motorola Solutions is pleased to present this proposal to City of Allen for the upgrade of their existing NICE Logging system. Motorola Solutions has included a primary offering which includes an NRX logger with Inform, QA, Storage Center Upgrade, AQUA and Text to 911. Screen recording for 6 positions and a parallel NRX recording solution:

- Parallel NRX logger with Inform, QA, Screen Recording, Storage Center Upgrade, AQUA and Text to 911

This proposal is subject to the enclosed H-GAC System Purchase Agreement and remains valid for a period of ninety (90) days from the date of this cover letter. The City of Allen may accept the proposal by delivering to Motorola a signed copy of the System Purchase Agreement. Alternatively, Motorola Solutions is pleased to address any concerns that the City of Allen may have regarding the proposal. Any questions can be directed to your Motorola Solutions Account Executive, Bobby Thompson at 469-236-373.

We thank you for the opportunity to furnish the City of Allen with "best in class" solutions and we hope to strengthen our relationship by implementing this project. Our goal is to provide you with the best products and services available in the communications industry.

Sincerely,

Motorola Solutions, Inc.

Bobby Thompson  
Motorola MR Account Executive  
DFW Communications Inc.

# SYSTEM DESCRIPTION

## 1.1 SYSTEM OVERVIEW

Motorola is pleased to present this proposal to City of Allen for the upgrade of their existing NICE Logging system. Motorola has included a primary offering which includes an NRX logger with Inform, QA, Storage Center Upgrade, AQUA and Text to 911. As an option screen recording for 6 positions is proposed. Additionally, parallel NRX recording and resilient Inform is proposed as an option. Lastly, a playback workstation is also proposed as an option.

### 1.1.1 Primary Offering (NRX, Inform, QA, Storage Center, AQUA, Text to 911)

The current analog logging recorder is legacy equipment. In order to upgrade the analog logger, Motorola proposes the replacement of the logger with a new NICE analog logger. The primary offering shall include the replacement of the existing NiceLog analog logging recorder with a new NICE NRX Analog logger. This logger shall be able to record a maximum of 24 channels of 2-wire analog audio streams OR a maximum of 12 channels of 4-Wire audio streams and 16 passive VoIP Avaya phone sets.

The proposed primary offering also includes a redundant NRX Logging solution that will have the ability to record 24 channels of 2-wire analog audio streams OR 12 channels of 4-wire audio streams as well as 16 passive VoIP from the existing VoIP phone sets in a redundant configuration to the primary NRX logger.

Also included is the Inform/Storage Center. The retention period of the storage center is for 2 years. The storage center will have an additional HDD to support telephony archives from the proposed NRX Server.

The primary offering also includes CastleRock, a system monitoring software, for the new proposed equipment. The existing Inform application will be upgraded from version 6 to version 7.2 with the expansion of QA and screen recording.

Motorola understands that the existing CEN equipment currently has sufficient ports on the firewall and switch to interface the analog loggers into the RNI. Therefore, Motorola has not included any CEN equipment in this proposal.

Services have been included for a Database Migration of the existing NiceLog Perform Database to reside on the new Inform/Storage Server.

#### 1.1.1.1 Analog NRX Logging Recorder

This offering includes the following equipment:

- Qty (1) NRX Recorder Bundle
  - Up to 24 Channel 2-Wire OR 12 Channel 4-Wire Audio
  - Up to 16 Passive VoIP Avaya Phone lines
- Qty (1) CastleRock SNMP Management Application
- Qty (1) Digibox Serial to IP Converter



### 1.1.1.2 Inform Expansion and Upgrades

- Qty (1) NICE Inform Upgrade Kit
  - Qty (1) NICE Inform Server License Upgrade PER VERSION
  - Qty (75) Single Channel NICE Inform license upgrade, PER CHANNEL, PER VERSION
  - Qty (1) NICE Inform Media Player upgrade, price PER SYSTEM, PER UPGRADE
  - Qty (1) NICE Inform Monitor application upgrade, price per concurrent user license PER VERSION upgrade
  - Qty (5) NICE Inform Organizer application upgrade, price per concurrent user license PER VERSION upgrade
  - Qty (5) Reconstruction per concurrent user, PER VERSION upgrade
  - Qty (1) NICE Inform Reporter application upgrade - per user license and version upgrade
  - Qty (2) NICE Inform Evaluator application upgrade - per user license per version upgrade

### 1.1.1.3 Hardware and Software Additions

- QA Components to include:
  - Qty (6) User Registration Application Licenses
  - Qty (6) Concurrent Workstation Software Screen Recording Licenses
- Text-911 Recording to include:
  - Qty (1) Text Recording Service with Integration to Inform
- Additional Upgrades and Expansions:
  - Qty (1) Software for Migrating Audio and Data from Legacy Recorders
  - Qty (1) NICE Inform API for integration with AQUA per single concurrent user connection
- Storage Center Server Hardware

### 1.1.1.4 Training

- Inform User Training – 2 Days on-site, up to 6 participants
- Inform Evaluator and Reports Training – 1 Day
- NRX System Admin training – Self paced for one user

## 1.1.2 Screen Recording Option

### 1.1.2.1 Screen Recording Server

- Qty (6) Single Text Recording Endpoint with NENA Integration
- Qty (1) Core license for Screen Recording
- Qty (1) Application Server Hardware
- Qty (3) Internal Storage – 6TB

## 1.1.3 Parallel NRX Recorder Bundle Option

This offering includes the following equipment:

- Qty (1) Parallel NRX Recorder Bundle
  - Up to 24 Channel 2-Wire OR 12 Channel 4-Wire Audio

- Up to 16 Passive VoIP Avaya Phone lines
- Qty (1) Digibox Serial to IP Converter

### 1.1.4 Playback Workstation Option

This offering includes the following equipment:

- Qty (1) 19" Black Shelf
- Qty (1) AC Power Strip
- Qty (1) HP Z440 Workstation

## 1.2 NICE SOLUTION SYSTEM ARCHITECTURE

The proposed NICE recording system is based on the innovative NICE Inform suite of applications. Analog, digital as well as VoIP audio inputs can be captured by the proposed NICE Recording Express (NRX) platform and managed using the NICE Inform application suite as part of a complete incident information management. The audio system can integrate with third-party systems, such as a telephony switch, a trunked radio system, storage system, and others to capture the interaction content as well as its related metadata. The system consists of the following components:

**NICE Recording Express (NRX)** - The NICE Recording Express platform is reliable and future-proofed recording solution ideal for any size enterprise to capture, store, retrieve and play back voice communications. It can be used in traditional TDM or IP telephony environments to deliver high quality voice recordings for all applications including verification, dispute resolution, training and quality monitoring. The industry leading technology from NICE built into NICE Recording Express is used by the world's leading financial institutions, governmental, public safety organisations, and contact centres. By taking advantage of commercial off-the-shelf (COTS{ XE "COTS" }) hardware and customer provided network storage devices, this award-winning voice recording solution provides unsurpassed functionality while reducing a firm's total cost of ownership. This flexible product delivers high quality voice recordings of traditional TDM or VoIP telephony.

A single playback workstation is quoted as an option to be used with the 19" Widescreen Rack Console with 8-port KVM included in the primary offering. The workstation consists of a PC installed with the Inform™ reconstruction software. Replay user accounts can be configured with detailed access rights to maintain separation between users of different units who may share the ASTRO 25 system.

The proposed logging subsystem will allow users and network managers to:

- Choose any call for playback and review.
- Restrict recording, playback, and review to specified users and units.
- Playback audio that matches advanced search criteria.

## 1.3 NICE INFORM AND SUITE OF APPLICATIONS

**NICE Inform Server and Suite of Applications** - the NICE Inform Server hosts the NICE Inform database, the NICE Inform Server software services and the web interface used by the clients to start the NICE Inform Applications. NICE Inform uses Microsoft's .NET Windows Forms technology to provide automatic updates from the NICE Inform web server. This helps NICE combine low desktop support costs with feature-rich, high quality graphical user interfaces. The NICE Inform Applications

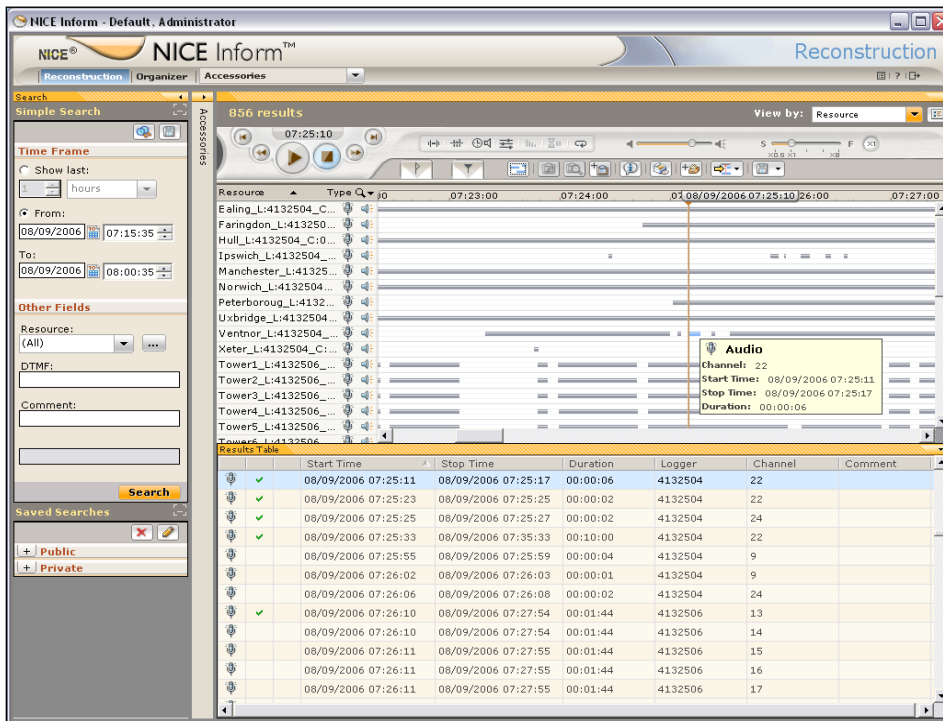
are provided below along with specific capabilities. Please note that not all features and functionalities described below may be proposed for City of Allen.

- **Reconstruction** - the tool for search and replay of audio across the system. It consolidates into a graphical display video, audio, and other types of information recorded by NICE.
- **Organizer** - the tool for management and distribution of recordings and ancillary material. Organizer is an application that streamlines the recording distribution process.
- **Media Player** – the tool to share information with Inform and non-Inform users so that they can have a complete incident picture as the Reconstruction user does. Inform Media Player allows users like police investigators and attorneys to apply functionality like viewing pictures, and other multimedia items associated with the incident.
- **Monitor** - provides near real time access to ongoing calls. The NICE Inform Monitor application provides a way to listen to current activity on a group of channels.
- **Administrative Applications** – including: Audit Trail, User Administration and System Administration, for complete system and user administration.
- **NICE Inform Verify Application** - displays the recent call history, and is designed for call-takers and dispatchers who need to verify the event details.
- **NICE Inform Media Importer** – allows windows media audio files or 3<sup>rd</sup> party video clips to be imported into the timeline of the Inform application.
- **NICE Quality Assurance** - Armed with complete incident information, supervisors are able to evaluate not only a single call, but also an entire incident with Inform Quality Assurance.
- **NICE Screen Recording** - The NICE Screen Recorder is a solution that captures and records every activity on each screen. Those recordings are available to NICE Inform for synchronization with other recorded multimedia information sources such as 9-1-1 calls, radio transmissions, video surveillance and text-to-9-1-1, for a complete reconstruction of an incident. This provides an accurate understanding of how an event has unfolded, including the operator's angle.





## 1.3.1 RECONSTRUCTION



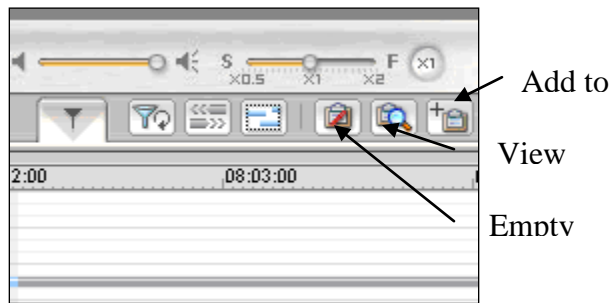
Reconstruction provides a combination of graphical and list displays of the recordings – giving a visualization of the recordings and the detail to investigate more closely. Reconstruction includes many powerful features, designed and developed with the user in mind in order to facilitate an easy and effective work process. Some of these features are:

**Playback Volume and Balance Control Per Recorded Channel** - When replaying multiple audio channels mixed together and synchronized in real-time, users can dynamically control audio settings for each channel independently. Users can therefore quickly gain an understanding of both the incident communication as a whole and each audio recording individually.



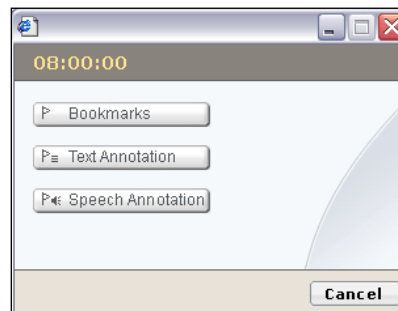
Figure 1 – Volume and Balance Control

**Clipboard** – The clipboard enables the user to keep a selection of search results on hand, while performing a new search or reviewing additional audio. The clipboard is particularly useful when the user finds that an incident involves a longer time frame or a wider number of channels than expected – all relevant audio from the first search can be placed on the clipboard, a new search performed with the new criteria and the combined results are now available for replay and further analysis.



*Figure 2 - Clipboard*

**Annotations** – During the review of the audio, users can add text and/or speech annotations to store further details or notes on the entire audio segment or on specific points in the recording. Annotations are marked as flags on the graphical view of recordings, so users can quickly refer to them. Bookmarks – annotations without text or speech – can also be added. Users can search for annotations at a later date, including annotations made with Last Message Replay.



*Figure 3 - Annotations*

## 1.3.2 ORGANIZER

Organizer is an advanced incident management module. Authorized users can store, access and manage multiple collections of specified recordings digitally replicated from the recorder that captured them. Recordings can be placed into an incident individually, or a collection of recordings can be given a name and managed collectively by that name. The incident storage area is independent from the normal recording storage area.

Audio that is within an incident can be replayed in just the same way as audio in the online store, with the same flexible user interface.

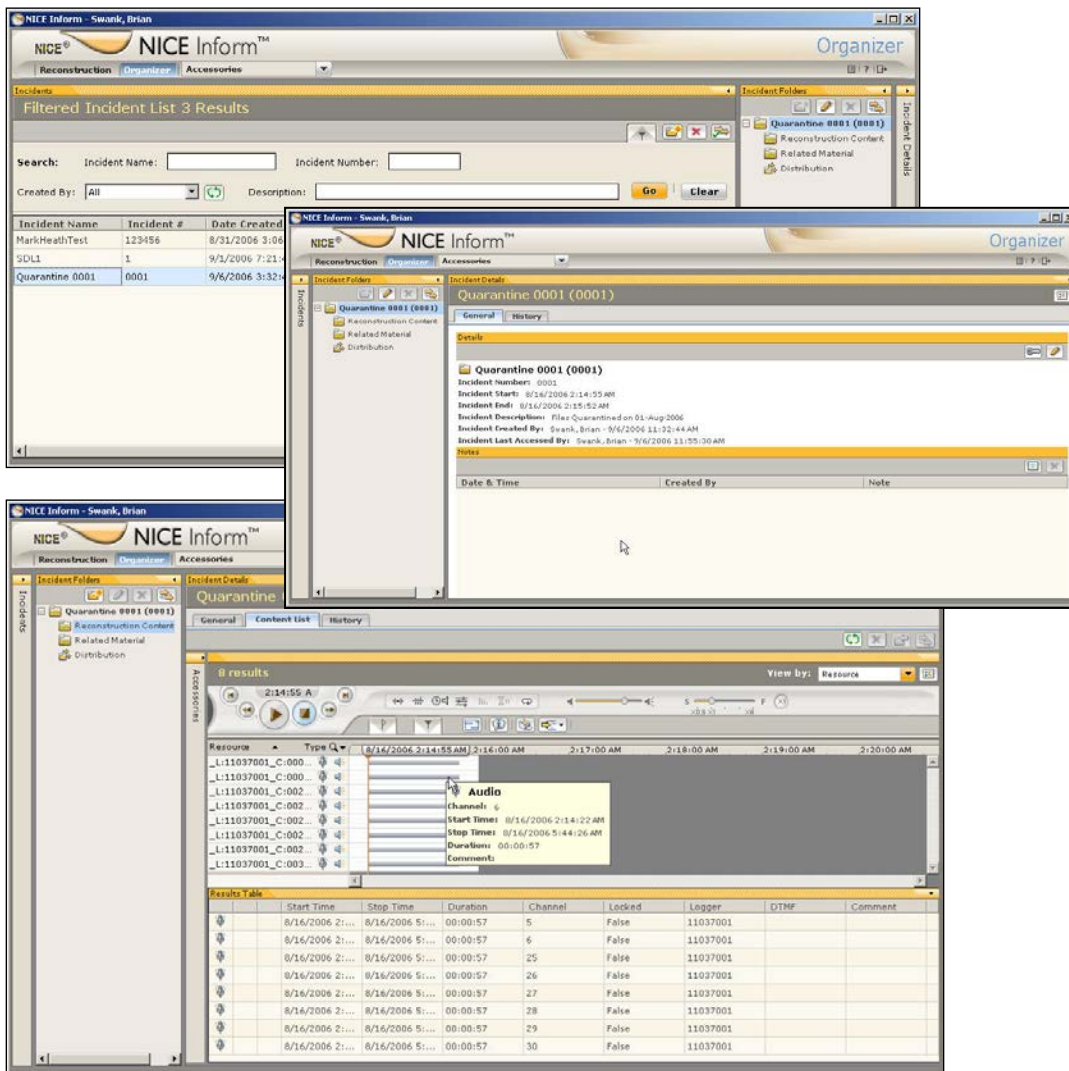


Figure 4- Incident List, Folders and Content Interfaces

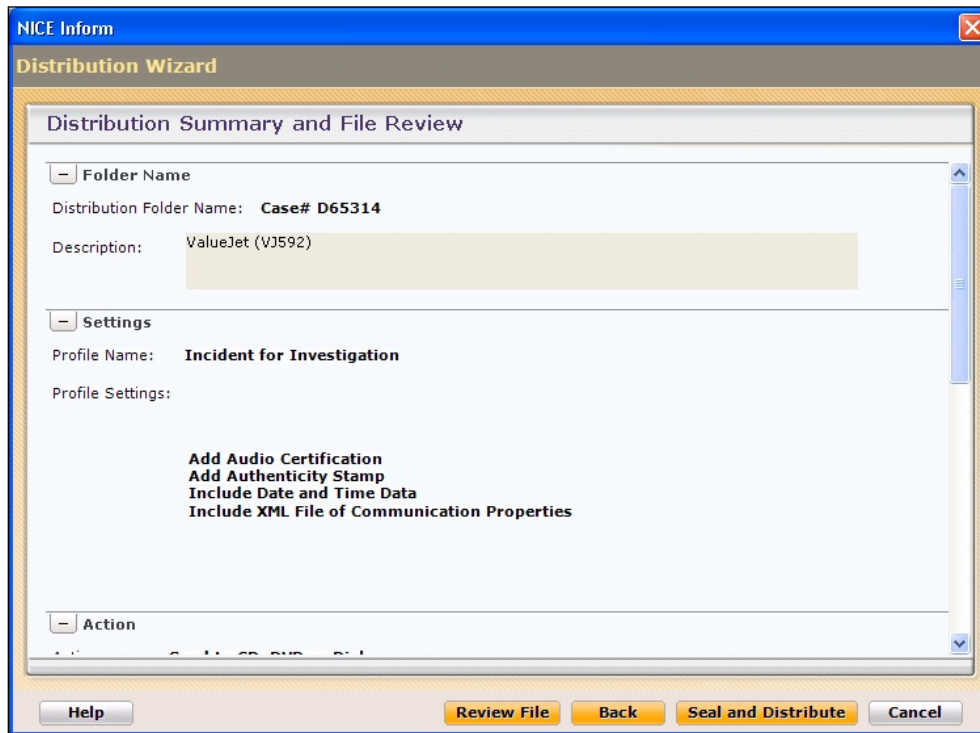
The Organizer application includes further unique features:

**Organization of Incident Information in Folders** – This provides a central location where all the incident recordings and related information are stored. This saves time and reduces errors, as users can refer to one location for all incident information rather than to multiple sources. Incidents can be accessed from any workstation. An authorized user, who has been granted the appropriate access privileges, can refer to the folder quickly and save time and effort in reconstructing the incident audio again. User privileges to access specific incidents may be independently defined for each incident.

**Comment/Notes Functionality** – An authorized user has the ability to add notes to each incident folder and to individual recordings within the quarantine folder, providing an explanation or reason for the inclusion of that material in the incident.

**Managing Additional Information** –Any other files or documents related to the incident can be imported to the incident folder to maintain, manage and secure all information about an incident in a single location. For example, the audio request that generated the creation of the incident folder could be saved alongside the incident recordings to provide a single location for all data concerning the incident

**Automated Distribution Process** – A wizard-guided distribution process simplifies the work for the user and wraps all incident material in one exported media file, including optional certification messages recorded by the user. Distribution profiles can be configured in advance to ensure consistency and repeatability when preparing audio for distribution. Profiles may be created for court purposes, where all audio is merged into a single file with certification messages added before and after the audio, or for investigative purposes, where all audio is kept separate and additional information is provided in an html page. Incidents may be distributed multiple times, in multiple formats, without the need to search the logging system each time.



*Figure 5 - Distribution Wizard*

**Log of Distributed Material** – This further enhances traceability of distributed material. If the incident information is requested again, the user can quickly find the original recreation in the Organizer application rather than go through the reconstruction and reproduction process again. If the distributed audio is questioned, for example, as to whether it is complete, the original recordings that made up the distributed audio are still available for reference and verification.

**Distribution Authentication** – When recordings are distributed they are saved as files in a folder that is given the name of the distribution. Also contained in this folder are other files that describe what the recordings contain. Each file that is saved has a hash code generated using the SHA-1 algorithm, which is stored in the NICE Inform server as part of the information kept about the distribution. To authenticate a distribution, the user opens the authentication dialogue and selects the relevant incident distribution folder. The distribution is then checked against the information stored on the server, including the quantity, names and recalculated hash codes of all the files in the distribution. The results of the verification, including any differences, are reported to the user.

**Access Control to Evidence** – Privilege-based access to incident folders is supported, with the ability to define unique user security access lists for each incident.

**History of Actions** – An audit trail is kept of every action taken on any of the recordings. This provides the ability to follow up and view actions taken by authorized users concerning the material of interest.

### 1.3.3 MONITOR APPLICATION

Monitor provides real time access to ongoing calls and a way to view real time activity on a group of channels. One or more channels can be optionally selected for monitoring and provides a local audio output on the workstation which is only a few seconds behind the actual conversation.

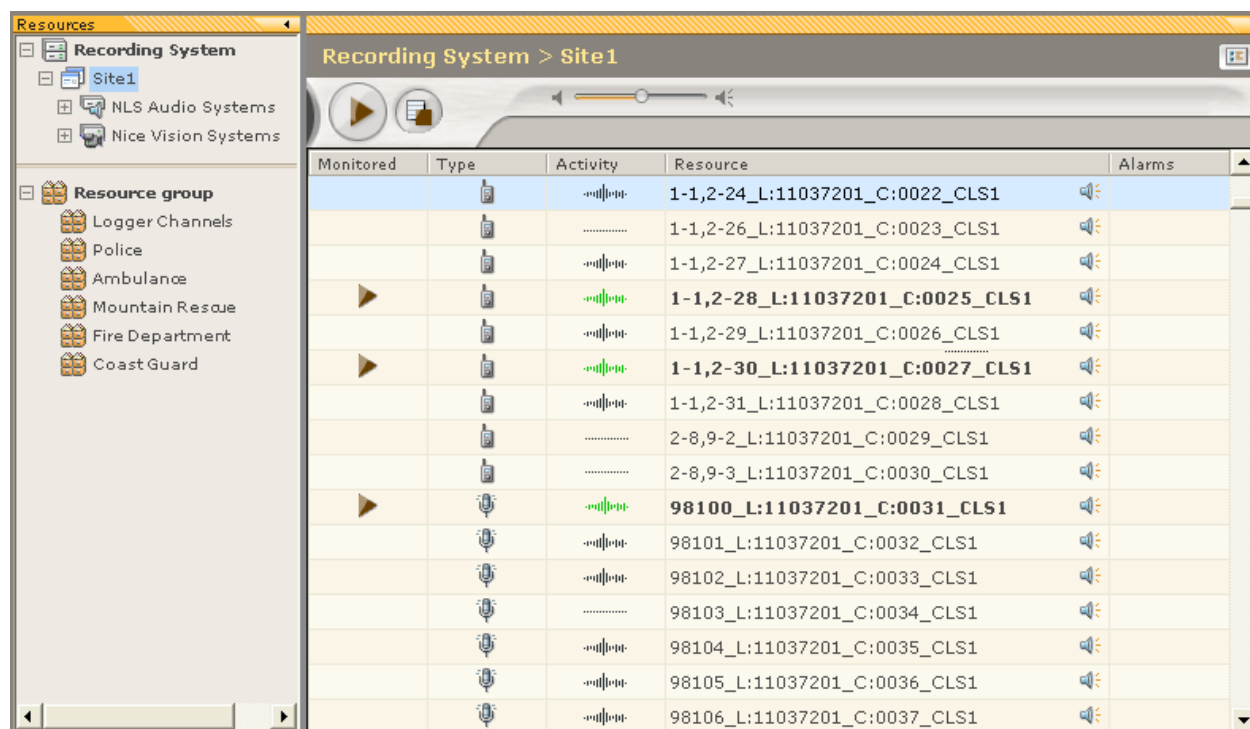


Figure 6 - NICE Inform Monitor

### 1.3.4 INFORM MEDIA PLAYER

The NICE Inform Media player is a true standalone application which enables the recipients of a distributed incident from the Organizer module to view the incident transactions in a synchronous format. It is distributed as an executable file negating the requirement to download it and therefore not imposing on any organizational IT security policies.

The display of the GUI is very similar to the Organizer view in order to provide continuity of the application branding but, more importantly, to provide an easy understanding between the distributor and the recipient of the material being reviewed. It has been designed with 'review' in mind. This means that all editing functionality has been removed in order to ensure that the distribution remains as a whole. The distribution has also been encrypted in order to enhance security of the content within the distribution (which in most cases is extremely sensitive).

Additionally, there is authentication associated with each of the files within the distribution and the Inform Media Player utilizes its own authentication function to detect whether files have been tampered with, deleted or modified in any way. It will then notify the reviewer and provide the option to continue opening the distribution, based on the fact that it may be incomplete.

Any related materials and associated notes with the incident folder are also forwarded to the recipient for review purposes.

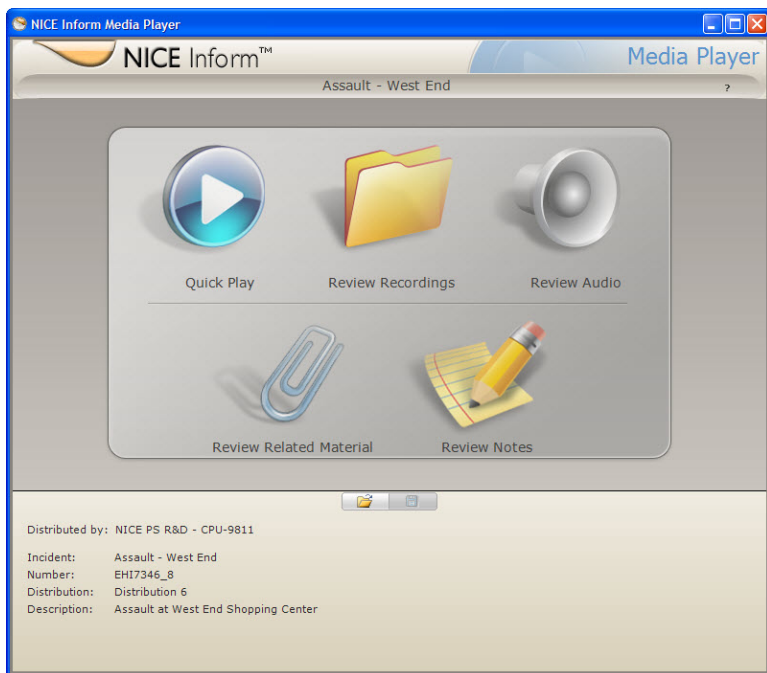


Figure 7 - NICE Inform Media Player View

NICE Inform Import Media enables you to:  
Import windows media audio files or 3<sup>rd</sup> party video clips into the Inform system to assist with incident reconstruction:

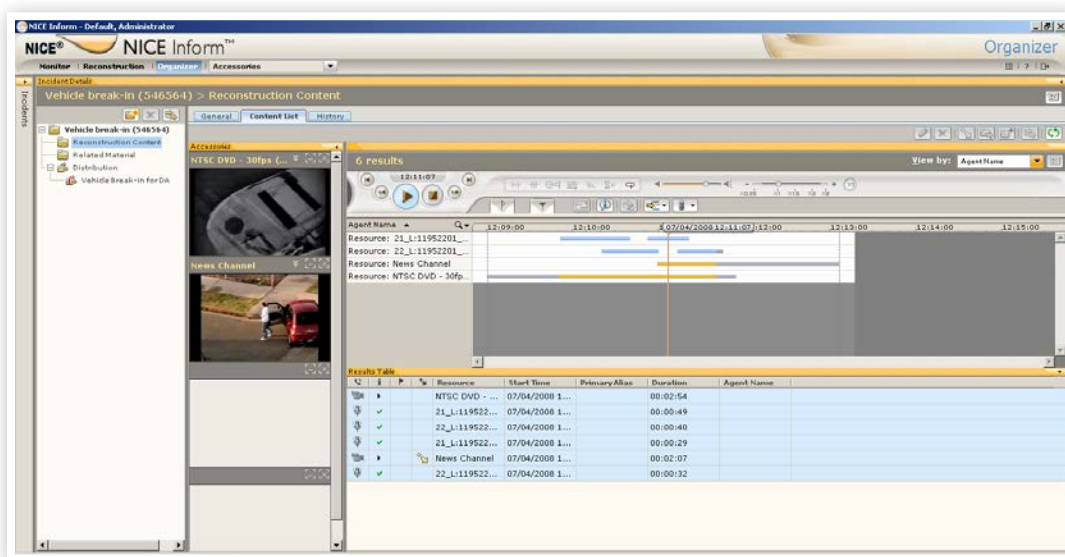


Figure 8 – NICE Inform 3<sup>rd</sup> Party importer Media Player View



### 1.3.5 VERIFY

NICE Inform Verify enables you to replay the last recordings (over a pre-defined search period) on up to fifty resources assigned to the position the logged in workstation is connected to. A position is a logical grouping of workstations and resources. You can **ONLY** see and replay recordings on resources that have been assigned to the position that your workstation is connected to. Positions are configured within the System Administration application within NICE Inform.



### 1.3.6 USER ADMINISTRATION

This application enables user administrators to set up system-wide and user-by-user security for the system. Each and every user (including administrators and maintenance staff) requires a security account, which is used to control access to all applications, application features and recording channels in the system.

Users are given permission to use NICE Inform applications by attaching a profile to them. The profile defines the applications and features the user can have. Without the profile, the user cannot access any functions. Profiles define the roles the users perform, such as Dispatcher or Call-Taker. The user administrator can override the profile for a specific user if required.

The principal activities involved with User Administration are:

- Configuration of user and system wide Security Policies (including password rules and logon banner)
- The creation, editing and deletion of users and groups, including privilege profiles
- The assignment of privileges to a profile, which can then be given to a user or user group

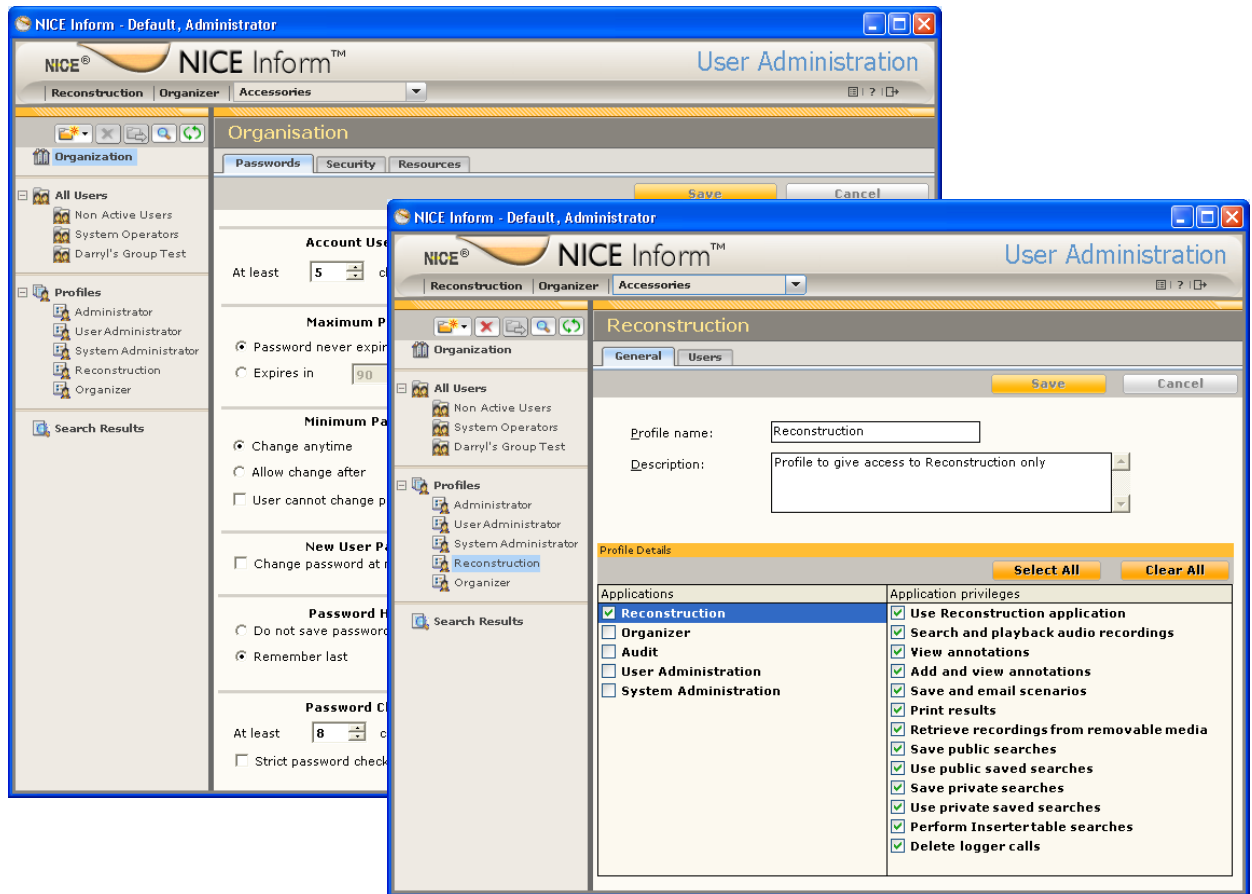


Figure 9– User Administration View

### 1.3.7 SYSTEM ADMINISTRATION

The application enables an authorized system administrator to install and set up the physical servers (such as recorders) and to label the system channels. Adding new objects into the system is simplified through the use of a context sensitive wizard to provide a logical, step-by-step approach. The application is split into two panes. The left-hand pane helps the user view the objects in the system and any configured grouping, particularly useful in larger systems such as ECTP with multiple loggers and sites. The right-hand pane details properties of the selected object, such as the list of channels associated with the object.

The principal tasks involved with System Administration include:

- The creation, editing and deletion of recording systems (or recorders)
- Assigning a user-specified name or label to each channel and pairing primary and secondary channels
- Creating groups of channels in order to enable subsequent security rights management of a group of channels as a single entity, for speed, accuracy and consistency



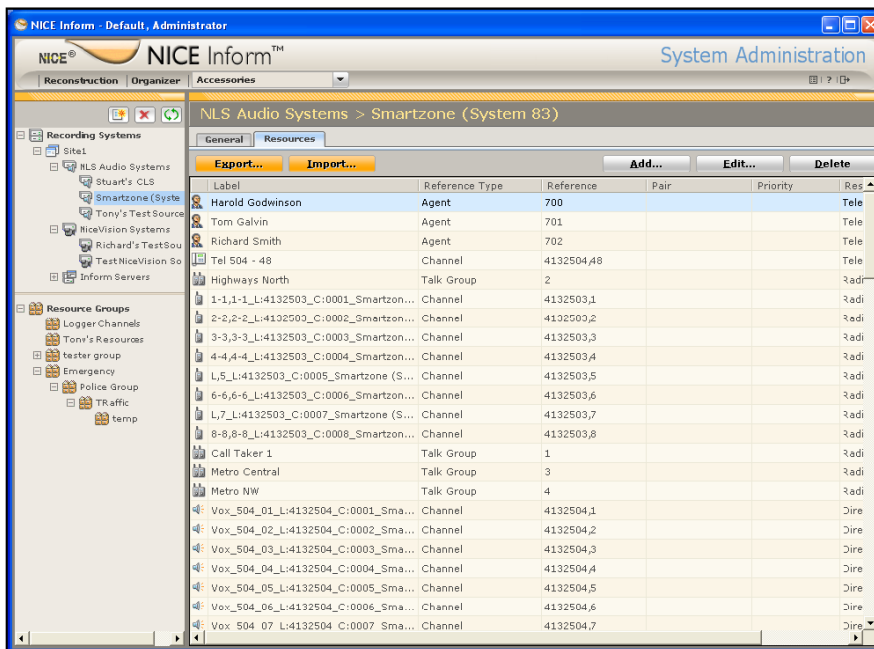


Figure 10 – System Administration View

## 1.3.8 ALARM NOTIFICATION AND TIME SYNCHRONIZATION

The primary mechanism of alarming for the system is via SNMP alerts. Hardware and software components are SNMP compliant (each with a custom MIB file) and provide real-time system monitoring and alerting to the SNMP Manager(s) provided with the system. The benefits of SNMP monitoring and alerting across the system include:

- Industry standard
- Enables multiple management clients to reside anywhere on the network
- Relatively simple implementation
- Relatively simple expandability and configuration
- Can be integrated with existing SNMP management systems

SNMP alerts are generated for internal and external alarms and warning events, such as:

- Failure of a redundant power supply in a conventional NiceLog
- Disk space low
- Inform user automatically logged out by system after inactivity time-out

**SNMP Management Console**, a third party application by Castle Rock, is optionally provided by NICE as a flexible and powerful tool for monitoring and acting upon SNMP events. A typical screen shot is shown below:

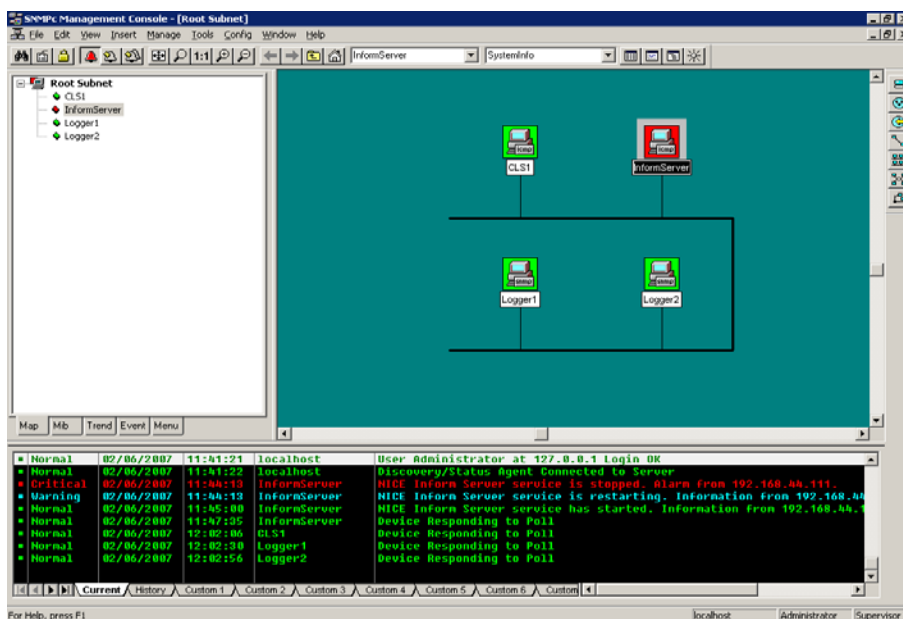


Figure 11 – SNMPc Management Console

NICE recommends that SNMP is monitored at the appropriate Operations Center. This can be with Castle Rock or with another standard SNMP client application. The NICE solution is designed to work with the network time synchronization protocol NTP. NICE recommends that at least one master clock source, synchronized by GPS or similar accurate method, is available. The Inform server can be configured to monitor the current time of the system components, and raise an alarm if a significant time difference is reported.

### 1.3.9 QUALITY MANAGEMENT

The NICE Quality Assurance solution is designed bottom up for Public Safety environments. It is part of the NICE Inform suite and administered here as well. An entire incident can be evaluated, from the 9-11 call through dispatch and also include audio and multimedia communication. Module includes evaluator, form designer to create browser based evaluation forms and a reporter module for statistical reporting.

### 1.3.10 SCREEN RECORDING

The NICE Screen Recorder solution captures and records every activity on each screen. Those recordings are available to NICE Inform for synchronization with other recorded multimedia information sources such as 9-1-1 calls, radio transmissions, video surveillance and Text-To-9-1-1, for a complete reconstruction of an incident. This provides an accurate understanding of how an event has unfolded,

NICE Screen Recording is done through the NICE Recording Platform. The same Platform used to capture audio and Text To - 9-1-1. This provides modularity and flexibility when expansion is required, as well as system management ease. Furthermore, replay of recorded screens can be integrated and viewed from any of the NICE Inform modules, including Reconstruction, Organizer, Evaluator and Media Player.

## 1.3.11 TEXT TO 9-1-1

Text logging is done by the NICE Recording system in compliance with NENA i3 standards supporting MSRP (Message Session Recording Protocol) and ATIS J-STD-110 standards. Text logging captures SMS and the text portion of an MMS. The NICE Text and Data Logging solution has been designed to extend your current logging system in two distinct ways: by building on the NICE Recording platform that is used for audio logging and screen logging, adding text and i3 data; and by seamlessly integrating with NICE Inform, allowing for multimedia incident information management, including: phone, radio, text, video, GIS, screen and other media.

Logging your text-to-9-1-1 communications is just one of the benefits your PSAP can enjoy with the NICE solution. Text logging includes message content, the texter's phone number, location information and timestamp per message. These fields can be used for searching for text interactions, including performing a search based on words mentioned in any of the text messages.

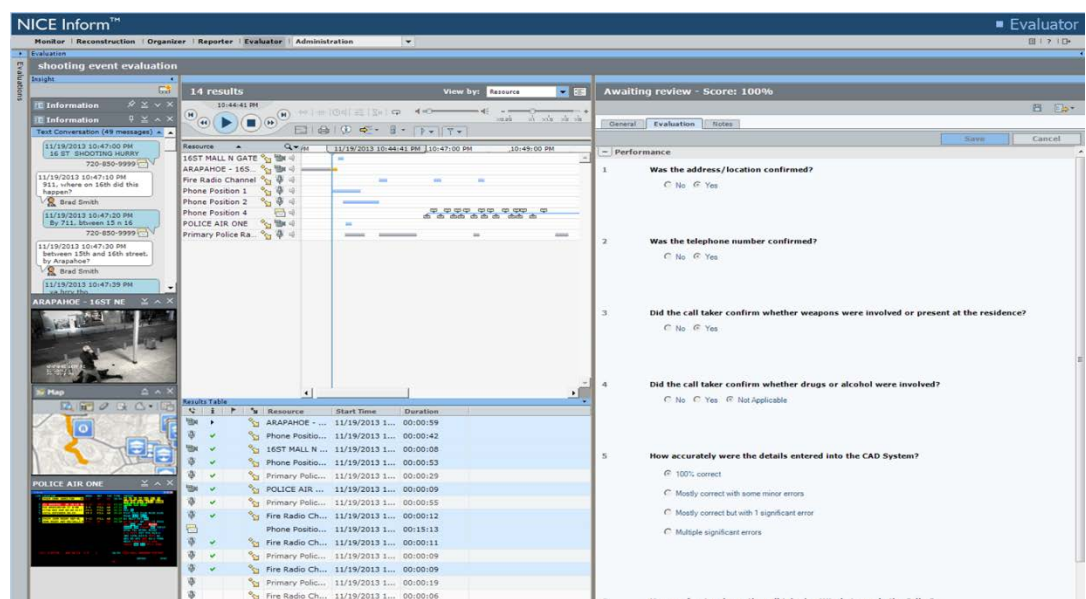


Figure 12– NICE Inform and Text to 911 View

## 1.4 NEXT GEN 9-1-1

NICE continues to be an active participant of the NENA Partner Program including;

- Industry Collaboration Events
  - ICE2 – Passive SIP based IP recording and Geo Location info
  - ICE3 – Passive VoIP recording and location information
  - ICE4 – Location services information and event logging and retrieval
  - ICE5 – Active SIP IP recording including video and text
  - ICE8 – Multimedia capabilities, allowing text, images, and real-time video
- Active in shaping standards in NENA's Long Term Development Working Group
- SIPREC working group within IETF – active with the RFC for the SIP based recording
- 1M+ VoIP channels deployed

- 25K+ RoIP channels deployed
- Invented, pioneered and patented VoIP recording



# STATEMENT OF WORK

This Statement of Work (SOW) describes the deliverables to be furnished to the City of Allen. The tasks described herein will be performed by Motorola, its subcontractors, and the City to implement the solution described in the System Description. Motorola has made certain design assumptions in the preparation of this design to provide a quote for the City.

The SOW describes the actual work involved in installation and clarifies the responsibilities for both Motorola and the City during the project implementation. Specifically, this SOW provides the qualifications and assumptions taken into consideration during the development of this project.

This SOW provides the most current understanding of the work required by both parties to ensure a successful project implementation. In particular, Motorola has made assumptions of the dispatch site to be used for the proposed system. Should any of the site criteria change, a revision to the SOW and associated pricing will be required.

## 2.1 MOTOROLA RESPONSIBILITIES

Motorola's general responsibilities include the following:

- Perform the installation of the Motorola supplied equipment described above.
- Schedule the implementation in agreement with City of Allen
- Coordinate the activities of all Motorola subcontractors under this contract.
- Administer safe work procedures for installation.
- Provide City of Allen with the appropriate system interconnect specifications.

## 2.2 CITY OF ALLEN RESPONSIBILITIES

The City of Allen will assume responsibility for the installation and performance of all other equipment and work necessary for completion of this project that is not provided by Motorola. The City of Allen general responsibilities include the following:

- Provide all buildings, equipment shelters, and towers required for system installation
- Ensure communications sites meet space, grounding, power, and connectivity requirements for the installation of all equipment.
- Make any necessary site improvements to meet R56 standards.
- Provide a dedicated delivery point, such as a warehouse, for receipt, inventory and storage of equipment prior to delivery to the site(s).
- Coordinate the activities of all City of Allen vendors or other contractors.
- Remove, relocate, or dispose of obsolete communications equipment as required.
- Connect all telephony connections between the proposed analog recorder and telephone line.



## 2.3 ASSUMPTIONS

Motorola has made several assumptions in preparing this proposal, which are noted below. In order to provide a firm quote, Motorola will need to verify all assumptions or seek alternate solutions in the case of invalid assumptions.

- This proposal is dependent upon the establishment of a Motorola MCC 7500 Console site connected to the City of Plano Core master site.
- Motorola understands that the City currently has a primary AIS and AIS VPM in place today and is operational.
- Motorola understands that the City has an existing CEN at the dispatch center which includes an existing border router, firewall, and CEN switch.
- All existing sites or equipment locations will have sufficient rack space available for the system described as required/specified by R56.
- All existing sites or equipment locations will have adequate electrical power in the proper phase and voltage and site grounding to support the requirements of the system described.
- Any site/location upgrades or modifications are the responsibility of the customer.
- Approved local, State or Federal permits as may be required for the installation and operation of the proposed equipment are the responsibility of the customer.
- Any required system interconnections not specifically outlined here will be provided by the City. These may include dedicated phone circuits, microwave links or other types of connectivity.
- The Motorola demarcation point for the Analog logger shall be the audio ports on the proposed NICE analog logger
- Motorola understands that the City of Allen has an SUA II contract in place that covers the existing NICE IP Logging recorder. The proposed redundant logging recorder requires the upgrade of the existing IP Logger to an HP G9 server.
- Motorola understands that the current CEN equipment has sufficient ports to support the interface of the primary and redundant analog loggers. Therefore, Motorola has not included any CEN equipment in this proposal.

## 2.4 ADDITIONAL NICE ASSUMPTIONS AND DEPENDENCIES

### 2.4.1 General

- Motorola assumes that there is sufficient rack space in existing network equipment rooms to accommodate the proposed logging recorder hardware.
- There will be sufficient space and power at all proposed locations to install the proposed equipment. Two rack mountable AC strips with 6 outlets along with 19" shelves have been provided to accommodate the equipment being proposed.
- The City will provide the analog audio as well as the VoIP feeds to the NRX server.
- The City is responsible for providing the network connectivity to allow communication of the proposed redundant recording server and the AIS.
- The City will provide a Switched Port Analyzer (SPAN) port to facilitate VoIP recording.
- All audio and LAN connections should be terminated within no more than ten (10) feet of the equipment location.
- All VoIP desk sets must have a static IP address assigned with un-encrypted audio.
- The City will provide a database replication program and storage for any databases they want replicated off site.



- Please note the below Avaya IP desksets which are certified to be integrated with the proposed NRX solution.
  - 1603 IP series One-X
  - 1608 IP series One-X
  - 1616 IP series One-X
  - 2402 IP
  - 2410 SW IP
  - 2420 SW IP
  - 4601 IP
  - 4602 IP
  - 4606 IP
  - 4610SW IP
  - 4612 IP
  - 4620 IP
  - 4621 SW IP
  - 4622 SW IP
  - 4624
  - 4624D
  - 4625 IP
  - 4630 SW IP
  - 4690 IP Speakerphone
  - 5601 IP
  - 5602 IP
  - 5610 IP
  - 5620 IP
  - 96XX IP (XX = all series) One-X
  - IP softphone 5.x (R4)
  - IP softphone 6.x (SP5)
  - IP softphone 7.x
  - IP Office R4.0 SoftConsole
- Customer to provide detailed schematic of infrastructure, including details of all routers/switches for the data network relating to the recorder system and the mapping of phone lines in the system.
- The Customer must notify NICE of any compulsory Site Safety induction required for site access. Non notification will result in project delays and incur additional services costs.
- The Customer must notify NICE of any compulsory server hardening policies.

## 2.4.2 Facilities (Electrical, HVAC and Dimensions)

- Customer is responsible for providing the required power for the proposed system including all associated wiring, hardware, outlets, grounding etc.
- Electrical connectors for all NICE recording systems are standard NEMA 5-15P, 3-wire, non-locking, straight blade, grounded plugs.
- All electrical outlets for the proposed system should be located no more than three (3) feet from the rear of the equipment location.
- Customers are responsible for providing sufficient heat dissipation for the proposed system as defined in the attached environmental specifications.
- If Customer wishes to have parallel operation of new NICE system and legacy recording system, the Customer shall provide sufficient space (floor, rack, etc.) in work area.
- The Solution is not certified for seismic activity and does not include any hardware or subsystems making it more [or less] susceptible to seismic activity.
- To ensure operation during a power failure, all recording equipment associated to the recording process should be protected by an Uninterruptable Power Supply (UPS). It is also recommended





that the dual power supplies on the NICE supplied servers be connected to separate circuits for added protection.

- Customer is responsible for providing UPS backup to provide enough power to associated equipment for a minimum of five (5) minutes subsequent to loss of power.

### 2.4.3 Demarcation

- Unless specifically stated otherwise, the demarcation point will be defined as the back of the recorder and/or other server hardware that NICE/ Motorola provides.
- Customer is responsible for ensuring the availability and proper function of all audio for recording up to and including the demarcation point.
- Customer is responsible for ensuring the availability and proper function of any data feeds being utilized for capture by the recording system including but not limited to ANI/ALI, Caller ID, CTI, etc. up to and including the demarcation point whether hard point or LAN based.
- Customer is responsible for all wiring up to and including the demarcation point to include audio signaling, network and antennae (if required).
- All audio and LAN connections should be terminated within no more than ten (10) feet of the equipment location.
- Unless specifically stated and previously agreed by both parties, all telephony audio feeds for recording must be in two-wire format.
- All TDM inputs to be recorded must be presented to punch-blocks within 10 meters (30 feet) of the rear of the logger servers.

### 2.4.4 Interfaces

- The Customer is responsible for providing ANI/ALI data to the rear (demarc) of the NICE recorder or capture device server. If ANI/ALI is delivered via RS232 the cable supplied by the customer must be terminated in a DB9 FEMALE connector.
- Customer is responsible for providing a data capture file for ANI/ALI prior to confirmation of ANI/ALI driver operation.
- Customer is responsible for providing all necessary hardware, software, licensing and installation of CTI, CDR and SMDR feeds for any and all PBX's to meet the integration requirements.
- Unless otherwise specifically addressed and priced in the quote, NICE makes no implicit or explicit commitment to interface to any third party software such as CAD, GIS, etc.

### 2.4.5 Inform

- Any Customer supplied replay workstations must support the Microsoft .NET infrastructure.
- Customer is responsible for all on-going management of all sub-systems in the solutions (e.g.. NICE Recorder, MCC7500 IP Radio Logger, Inform, etc...), including database back-ups, archive management, etc...

### 2.4.6 Network





- Customer is responsible for all data network infrastructure not purchased from Motorola including (but not limited to) switches, hubs, bridges, routers, firewalls, external caching devices and cabling.
- NICE recorders and servers require a static IP address for each device.
- The Customer will provide one network connection (minimum CAT5/RJ45 cable) for each system component requiring network access.
- Network utilizes Microsoft's TCP/IP protocol stack.
- Network supports minimum 100BaseT Ethernet.
- Customer will provide signals from the Customer network on minimum CAT 5/6 (RJ45 terminated).
- LAN/WAN latency is assumed to be less than 30 milliseconds.
- Automated system processes such as automatic installation of patches, application pushes, automated anti-virus updates, etc. are not to be run on logging system components (loggers, servers, etc.), unless specifically addressed in this SOW
- The Customer is responsible for any Port spanning/mirroring or packet duplication to facilitate passive VOIP recording.
- The customer is responsible for any configuration of duplicate audio/SIP streams for "2N" or secondary recording system.

## 2.4.7 Archiving

- The solution includes a SQL database (with appropriate SQL licensing) for each logger. It is the responsibility of the Customer to back-up these databases on a regular basis.
- The storage in the recorder for SQL database tables is not unlimited. If customer retention requirements is measured in years rather than months, it is the responsibility of the Customer to raise this subject with NICE prior to the final system configuration. This will help ensure the Customer receives a solution that will meet retention requirements.
- If the Customer is archiving to network storage, the LAN/WAN latency in the network is assumed to be less than thirty (30) milliseconds.

## 2.4.8 Implementation and Cut-Over

- NICE/ Motorola is not responsible for the moving or removal of legacy recording system.
- Customer is responsible for all replay workstations unless specifically stated otherwise.
- Customer will identify designated internal IT/Telephony/Network staff dedicated to the implementation of the Solution, in writing, prior to the commencement of the on-site implementation.
- Customer will provide all required site clearances for NICE staff from commencement of project (i.e. project kickoff meeting) through project completion. Project completion is defined as completion of the ITP and transition of support to NICE Customer Support Center.
- Customer will designate an authorized representative to participate in the Installation Test Procedure ("ITP") in its entirety. This representative will be identified prior to start of on-site implementation.

## 2.4.9 Project Completion, Post Implementation, and Maintenance

- Customer will ensure that all radio, dispatch, telephony and network systems are available and fully operational prior to the arrival of the NICE equipment.
- Customer will ensure availability of designated staff to assist in commissioning/implementation issues within a reasonable time once notified by NICE staff that their assistance is required.
- Customer will provide reasonable and necessary access to all required equipment upon verbal or written request by NICE Staff within a reasonable time period upon request.
- Customer is responsible for full-time system management subsequent to completion of implementation and training of Customer staff.



# WARRANTY SERVICES

Motorola's standard warranty covers on-site response during normal business hours and provides for the repair or replacement of defective hardware components.

In addition, Motorola provides a customized support package to meet your needs. We have included the following additional services in your support plan.

On Motorola's behalf, NICE Systems, Inc. will provide customized support services during the warranty period on the proposed NICE Logging system. Warranty support services will be enhanced to NICE's Gold Level of support, providing 24x7 Support services. These Gold Level support services are available for purchase post-warranty.

This Gold Level bundle of NICE support services to be delivered is outlined below:

## Gold Level

<b>Support Coverage</b>	Twenty-four (24) hours, seven (7) days per week. (24x7)
<b>Call Back Response Time</b>	Sixty (60) minutes after receipt of call from authorized representative
<b>On-Site Response Time for Priority 1 Service Issues</b>	Four (4) hours



# PRICING SUMMARY

Equipment and Services	Price
Equipment	\$173,341.00
Service and First Year Warranty	\$79,548.00
Discount	\$-47,076.00
<b>Total</b>	<b>\$205,813.00</b>



SECTION 5

# CONTRACTUAL DOCUMENTATION

Please see the following pages for the System Purchase Agreement.



## SYSTEM PURCHASE AGREEMENT (Radio Systems)

THIS AGREEMENT ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between Motorola Solutions, Inc., a Delaware corporation duly authorized to conduct business in the State of Texas ("Motorola" or "Seller") and \_\_\_\_\_, a body corporate and politic ("Purchaser").

### WITNESSETH:

WHEREAS, the Purchaser desires to purchase a Communications System; and

WHEREAS, Motorola desires to sell a Communications System to Purchaser; and

WHEREAS, Houston-Galveston Area Council ("H-GAC"), acting as the agent for various local governmental entities who are "End Users" under interlocal agreements (including the Purchaser) has solicited proposals for radio communications equipment and conducted discussions with Motorola concerning its proposal and, where applicable, in accordance with the competitive procurement procedures of Texas law; and

WHEREAS, H-GAC and Motorola entered into that certain Contract dated as of May 1, 2015 (the "Contract"), which provided that End Users may purchase radio communications equipment from Motorola pursuant to certain terms contained therein; and

WHEREAS, pursuant to Article 6 of the Contract, Motorola and Purchaser now wish to enter into this System Purchase Agreement to delineate the specific terms of the purchase of radio communications equipment from Motorola by the Purchaser.

THEREFORE, the parties hereby enter into an agreement pursuant to which Motorola shall perform the work and furnish the equipment and services as more fully set forth herein and in the following exhibits, which are either attached hereto or incorporated by reference and hereby made a part of this Agreement:

Exhibit A General Provisions.

Exhibit B Motorola Software License Agreement.

Exhibit C Technical and Implementation Documents, consisting of: \_\_\_\_\_ all dated \_\_\_\_\_.

Exhibit D Motorola/H-GAC Contract dated May 1, 2015.

Exhibit E Warranty and Maintenance Plan and Service Terms and Conditions (if applicable).

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

### Section 1 SCOPE OF WORK

A. Motorola shall furnish all of the equipment and software as outlined in Exhibit C and provide the tools, supplies, labor and supervision necessary for the installation of the items purchased in accordance with Exhibit C.

B. In addition to responsibilities described in the Statement of Work, Purchaser shall perform the following coincident with the performance of this Agreement:

(1) Provide a designated Project Director.

(2) Provide ingress and egress to Purchaser's facilities and/or sites as requested by Motorola and have such facilities available for installation of the equipment to be installed.



- (3) Provide adequate telephone or other communications lines (including modem access and adequate interfacing networking capabilities) for the installation, operation and support of the equipment.
- (4) Provide adequate space, air conditioning and other environmental conditions, and adequate and appropriate electrical power outlets, distribution, equipment and connections for the installation, operation and support of the equipment.
- (5) Provide a designated work area with adequate heat and light, and a secure storage area for equipment delivered to the Purchaser. The Purchaser shall be solely liable for loss or damage to equipment prior to, during and following installation when such equipment is on or within Purchaser's facilities and/or vehicles.

## **Section 2 SITES**

This Agreement is predicated on the utilization of sites and site configurations, which have been selected either by the Purchaser or by Motorola and set forth in Exhibit C. In either situation, should it be determined by either Motorola or Purchaser during the course of performance on this Agreement that the sites or configuration selected are no longer available or desired, new or replacement sites or configuration will be selected and approved by both Motorola and the Purchaser. If any price or schedule adjustments are necessary as a result of these new or replacement sites, such adjustments will be added to this Agreement by change order in accordance with Section 4 of the General Provisions.

## **Section 3 SUBSURFACE/STRUCTURAL CONDITIONS**

This Agreement is predicated upon normal soil conditions defined by E.I.A. standard RS-222 (latest revision). Should Motorola encounter subsurface, structural, adverse environmental and/or latent conditions at any site differing from those indicated on the specifications, or as used in the preparation of the bid price, the Purchaser will be given immediate notice of such conditions before they are further disturbed. Thereupon, Motorola and the Purchaser shall promptly investigate the conditions and, if found to be different, will adjust the plans and/or specifications as may be necessary. Any changes that cause an adjustment in the contract price or in time required for the performance of any part of the contract shall result in a contract modification in accordance with Section 4 of the General Provisions.

## **Section 4 PERIOD OF PERFORMANCE**

- A. Motorola projects that it will be able to obtain final acceptance and completion of the Acceptance Test Plan within the time interval specified in Exhibit C (if applicable). A more detailed timeline shall be provided to Purchaser after the design review and customer kick-off meeting.
- B. Whenever a party knows or reasonably should know that any actual or potential condition due to circumstances beyond its control is delaying or threatens to delay the timely performance of the work, the party shall within thirty (30) days give the other party notice thereof and may request an extension of time to perform the work.
- C. In order to successfully integrate and implement this project, shipments will be made F.O.B. Destination to Purchaser facilities, local Motorola staging facilities, warehousing facilities, or any combination thereof. It is agreed that this plan is acceptable to Purchaser and that Motorola will advise prior to shipment of actual destination and that Purchaser will accept shipment, and make payment as required by this Agreement.
- D. It is also agreed that equipment shipping dates reflected in this Agreement are estimates only, and that shipment may be made at any time prior to, or subsequent to these estimated shipping dates.

## **Section 5 ACCEPTANCE CRITERIA**

- A. Motorola will test the Communications System in accordance with the Acceptance Test Plan. System acceptance will occur upon the successful completion of such testing ("System Acceptance") at which time both parties shall promptly execute a certificate of system acceptance. If the Acceptance Test Plan includes separate tests for individual subsystems or phases of the System, both parties shall promptly execute certificates of



subsystem acceptance upon the successful completion of testing of such subsystems or phases. Minor omissions or variances in performance which do not materially affect the operation of the Communications System as a whole will not postpone System Acceptance. Purchaser and Motorola will jointly prepare a list of such omissions and variances which Motorola will correct according to an agreed upon schedule.

B. Motorola agrees to notify Purchaser when the Communications System is ready for acceptance testing. Motorola and Purchaser agree to commence acceptance testing within ten (10) business days after receiving such notification. If testing is delayed for reasons within the control of Purchaser or its employees, contractors, agents or consultants for more than ten (10) business days after notification, final payment will be due within thirty (30) days after such notification and the Warranty Period will commence immediately.

C. Motorola may, but is not obligated to, issue written authorization for Purchaser to use the Communications System or its subsystem(s) for limited training or testing purposes, prior to the completion of testing by Motorola. Any use of the Communications System without prior written authorization by Motorola shall constitute System Acceptance.

## **Section 6 PAYMENT SCHEDULE**

A. Motorola agrees to sell all of the equipment and perform the services as outlined in the Scope of Work, and Purchaser agrees to buy the aforementioned equipment and services for the sum of \_\_\_\_\_ (\$\_\_\_\_\_), which includes the H-GAC administration fee. The final price may be adjusted by change orders approved pursuant to Statement of Work attached hereto as Exhibit "C".

B. Payments to Motorola shall be made according to the following milestones:

1. 20% of the total contract price is due when Purchaser executes this Agreement;
2. 60% of the total contract price will be invoiced immediately after the Equipment is shipped from Motorola's facilities;
3. 10% of the total contract price will be invoiced immediately after the Equipment is installed at the sites specified in the Exhibits; and
4. 10% of the total contract price will be invoiced immediately after System Acceptance.

Motorola reserves the right to make partial shipments of equipment and to request payment upon shipment of such equipment. In addition, Motorola reserves the right to invoice for installations or civil work completed on a site-by-site basis, when applicable.

C. In the event of failure or delay by the Purchaser in providing sites, space, approvals, licenses, or any other Purchaser obligations required preceding delivery of Motorola equipment, it is agreed that Motorola, at its sole discretion, may ship equipment as planned and that the Purchaser will accept the equipment and make payment in accordance with the terms of this Agreement. Any additional costs incurred by Motorola for storage of equipment will be invoiced and paid by Purchaser.

D. Payments to Motorola shall be made as follows:

- (i) Motorola shall immediately forward an invoice for the payment requested in Section 6(B) above to Purchaser.
- (ii) Purchaser shall pay the Motorola invoice within thirty (30) calendar days of receipt.

E. Motorola will pay H-GAC's administrative fee in accordance with the payment terms of Motorola/H-GAC Contract dated May 1, 2015.





F. TERM. Unless terminated in accordance with other provisions of this Agreement or extended by mutual agreement of the Parties, the term of this Agreement begins on the date as set forth above and continues until the date of Final Project Acceptance or expiration of the Warranty Period, whichever occurs last.

## **Section 7 PROJECT MANAGEMENT**

A. If the size or complexity of the project warrants, Motorola will assign a Project Manager, who is authorized to exercise technical direction of this project. Motorola, at any time, may designate a new or alternate Project Manager with written notice to Purchaser and H-GAC.

B. All matters affecting the terms of this Agreement or the administration thereof shall be referred to Motorola's cognizant Contract Administrator who shall have authority to negotiate changes in or amendments to this Agreement.

## **Section 8 NOTICE ADDRESSES**

A. Motorola Solutions, Inc.  
1303 East Algonquin Road  
Schaumburg, IL 60196  
Attn.: Law Department

B.

C. Houston-Galveston Area Council  
3555 Timmons Lane, Suite 120  
Houston, Texas 77027  
Attn.: Public Services Manager

## **Section 9 ORDER OF PRECEDENCE**

In the event of an inconsistency in this Agreement, the inconsistency shall be resolved in the following order:

The main body of this Agreement.

Exhibit A General Provisions.

Exhibit B Motorola Software License.

Exhibit C Technical and Implementation Documents, consisting of: \_\_\_\_\_.

Exhibit E Warranty and Maintenance Plan and Service Terms and Conditions (if applicable)

Exhibit D Motorola/H-GAC Contract dated \_\_\_\_\_.

## **Section 10 DISPUTES**

Motorola and the Purchaser will attempt to settle any claim or controversy arising out of this Agreement through consultation and negotiation in good faith and a spirit of mutual cooperation. If those attempts fail, then the dispute will be mediated by a mutually acceptable mediator to be chosen by Motorola and the Purchaser within thirty (30) days after written notice by one of the parties demanding non-binding mediation. Neither party may unreasonably withhold consent to the selection of a mediator. Motorola and the Purchaser will bear their own costs but will share the cost of the mediator equally. By mutual agreement, however, Motorola and Purchaser may postpone mediation until both parties have completed some specified but limited discovery about the dispute.



The parties may also agree to replace mediation with some other form of non-binding alternate dispute resolution procedure ("ADR").

Any dispute which cannot be resolved between the parties through negotiation or mediation within two (2) months of the date of the initial demand for it by one of the parties may then be submitted to a court of competent jurisdiction in Texas. Both Motorola and Purchaser consent to jurisdiction over it by such a court. All communications pursuant to the negotiation and mediation will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law. The use of any ADR procedures will not be considered under the doctrine of laches, waiver or estoppel to affect adversely the rights of either party. Nothing shall prevent either of the parties from resorting to the judicial proceedings mentioned in this paragraph if (a) good faith efforts to attempt resolution of the dispute under these procedures have been unsuccessful or (b) interim relief from the court is necessary to prevent serious and irreparable injury to one of the parties or others.

#### **Section 11 SEVERABILITY**

If any portion of this Agreement or any exhibits hereto is held to be invalid, such provision or portion of such provision shall be considered severable, and the remainder of this Agreement shall not be affected.

#### **Section 12 HEADINGS AND SECTION REFERENCES**

The headings given to the paragraphs are inserted for convenience only and are in no way to be construed as part of this Agreement or as a limitation of the scope of the particular paragraph to which the heading refers.

#### **Section 13 SURVIVAL OF TERMS**

The following provisions will survive the expiration or termination of this Agreement for any reason: Section 6 (Payment Schedule) if any payment obligations exist; Section 9 (Order of Precedence); Section 10 (Disputes); Section 11 (Severability); Section 12 (Headings and Section References); Section 13 (Survival of Terms) and Section 14 (Full Agreement).

#### **Section 14 FULL AGREEMENT**

This Agreement and its Exhibits constitute the final expression of the agreement of the parties and supersedes all previous agreements and understandings, whether written or oral, relating to the work. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. A facsimile copy or computer image, such as a PDF or tiff image, or a signature shall be treated as and shall have the same effect as an original signature. In addition, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document. This Agreement may not be altered, amended, or modified except by written instrument signed by duly authorized representatives of the parties. The preprinted terms and conditions found on any Purchaser purchase order, acknowledgment or other form will not be considered an amendment or modification of this Agreement, even if a representative of each party signs that document.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the last day and year written below.

**Motorola Solutions, Inc.**

**Purchaser**

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Print - Block Letters)

Name: \_\_\_\_\_  
(Print - Block Letters)



Title: \_\_\_\_\_  
(Print - Block Letters)

Date: \_\_\_\_\_

Title: \_\_\_\_\_  
(Print - Block Letters)

Date: \_\_\_\_\_



## **EXHIBIT A**

### **GENERAL PROVISIONS**

#### **MOTOROLA SOLUTIONS, INC.**

##### **Section 1 STANDARDS OF WORK**

Motorola agrees that the performance of work described in this Agreement and pursuant to this Agreement shall be done in a professional manner and shall conform to professional standards. All packaging and packing shall be in accordance with good commercial practice.

##### **Section 2 TAXES**

The prices set forth in the Agreement are exclusive of any amount for Federal, State or Local excise, sales, lease, gross income service, rental, use, property, occupation or similar taxes. If any taxes are determined applicable to this transaction or Motorola is required to pay or bear the burden thereof, the Purchaser agrees to pay to Motorola the amount of such taxes and any interest or penalty thereon no later than thirty (30) days after receipt of an invoice therefore.

##### **Section 3 SHIPPING, TITLE AND RISK OF LOSS**

All sales and deliveries are F.O.B. Destination. Motorola reserves the right to make deliveries in installments and the Agreement shall be severable as to such installments. Title to the equipment shall pass to the Purchaser upon receipt at the F.O.B. Destination. After delivery to the F.O.B. Destination, risk of loss and damage to the articles shall be borne by the Purchaser. The above notwithstanding, title to software and any third party supplied software shall not pass upon payment of the license fee therefor or under any circumstances.

##### **Section 4 CHANGES IN THE WORK**

A. The Purchaser may, at any time, by written order, make changes within the general scope of the work, including but not limited to revisions of, or additions to, portions of the work, or changes in method of shipment or packaging and place of delivery.

B. If any order under this Section 4 causes an increase or decrease in the cost of or time required for the performance of any part of the work under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified in writing accordingly. Motorola is not obligated to comply with any order hereunder unless and until the parties reach agreement as to the aforementioned equitable adjustment and same is reflected as an addendum to this Agreement.

##### **Section 5 LIMITATION OF LIABILITY**

Except for personal injury or death, Motorola's total liability whether for breach of contract, warranty, negligence, indemnification, strict liability in tort or otherwise, is limited to the price of the particular products or services sold hereunder with respect to which losses or damages are claimed. IN NO EVENT WILL MOTOROLA BE LIABLE FOR ANY LOSS OF USE, LOSS OF TIME, INCONVENIENCE, COMMERCIAL LOSS, LOST PROFITS OR SAVINGS OR OTHER INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES TO THE FULL EXTENT SUCH MAY BE DISCLAIMED BY LAW. This limitation of liability provision survives the expiration or termination of the Agreement and applies notwithstanding any contrary provision. No action shall be brought for any breach of this contract more than two (2) years after the accrual of such cause of action except for money due upon an open account.

##### **Section 6 EXCUSABLE DELAYS**

A. Neither Motorola nor the Purchaser shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but are not be limited to, acts



of God; fire; strikes; material shortages; compliance with laws or regulations; riots; acts of war; or any other conditions beyond the reasonable control of the party or parties.

B. Delays as identified herein may cause an impact on the Period of Performance stated in the Agreement. Such delays will be subject to an Agreement addendum as described in Section 4.

## **Section 7      DEFAULT**

A. If either party fails to perform a material obligation under this Agreement, the other party may consider the non-performing party to be in default (unless such failure has been caused by the conditions set forth in Section 6 of these General Provisions) and may assert a default claim by giving the non-performing party a written and detailed notice of default. Except for a default by Purchaser for failing to pay any amount when due under this Agreement which must be cured immediately, the defaulting party will have thirty (30) days after receipt of the notice of default to either cure the default or, if the default is not curable within thirty (30) days, provide a written cure plan. The defaulting party will begin implementing the cure plan immediately after receipt of notice by the other party that it approves the plan. If Purchaser is the defaulting party, Motorola may stop work on the project until it approves the Purchaser's cure plan.

B. If a defaulting party fails to cure the default as provided above in Section 7.A, unless otherwise agreed in writing, the non-defaulting party may terminate any unfulfilled portion of this Agreement. In the event of termination for default, the defaulting party will promptly return to the non-defaulting party any of its confidential information. If Purchaser is the non-defaulting party, terminates this Agreement as permitted by this Section, and completes the System through a third party, Purchaser may as its exclusive remedy recover from Motorola reasonable costs incurred to complete the System to a capability not exceeding that specified in this Agreement less the unpaid portion of the contract price. Purchaser will mitigate damages and provide Motorola with detailed invoices substantiating the charges. IN THE EVENT OF DEFAULT, MOTOROLA SHALL NOT BE LIABLE FOR ANY INCIDENTAL, LIQUIDATED, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES.

## **Section 8      DELAYS BY PURCHASER**

If the Purchaser is responsible for delays in the schedule set forth in the Agreement, the Purchaser shall be liable for actual costs incurred by Motorola resulting from these delays if Motorola requests compensation. Such charges may include, but are not limited to, additional Engineering; rescheduling charges; storage charges; maintenance charges; and transportation charges. The Purchaser shall have the option to attempt to minimize actual costs incurred by storing and transporting equipment at its own expense. Such delays will be subject to an Agreement addendum as described in Section 4.

## **Section 9      LICENSES/AUTHORIZATION**

The Purchaser is solely responsible for obtaining any licenses or other authorizations required by the Federal Communications Commission and for complying with FCC rules. Neither Motorola nor any of its employees is an agent or representative of the Purchaser in FCC matters or otherwise. Motorola, however, may assist in the preparation of the license application at no charge to the Purchaser. Purchaser acknowledges that project implementation is predicated on receipt of proper FCC licensing.

## **Section 10     INDEMNIFICATION**

Motorola agrees to and hereby indemnifies and saves Purchaser harmless from all liabilities, judgments, costs, damages and expenses which may accrue against, be charged to, or recovered from the Purchaser by reason of or on account of damage to the tangible property of the Purchaser or the property of, injury to, or death of any person, to the extent and in the proportion that such damage or injury is caused by Motorola's negligent acts or omissions or that of its employees, subcontractors, or agents while on the premises of the Purchaser during the delivery and installation of the communications equipment. IN NO EVENT WILL MOTOROLA BE LIABLE FOR INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES.

## **Section 11     WARRANTIES**



A. **WARRANTY PERIOD.** Upon System Acceptance, the System Functionality representation described below is fulfilled. The Equipment and Motorola Software is warranted for a period of one (1) year after System Acceptance ("Warranty Period") in accordance with the applicable limited warranties shown below. In no event will the warranty period last longer than eighteen (18) months after the Equipment and Software is shipped from Motorola. Purchaser must notify Motorola in writing if Equipment or Motorola Software does not conform to these warranties no later than one month after the expiration of the Warranty Period.

B. **SYSTEM FUNCTIONALITY.** Motorola represents that the Communications System will satisfy the functional requirements in Exhibit C. Upon System Acceptance, this System Functionality representation is fulfilled. After System Acceptance, the Equipment Warranty set forth below and the Software Warranty set forth in the Software License Agreement will apply.

Motorola will not be responsible for performance deficiencies of the System caused by ancillary equipment not furnished by Motorola which is attached to or used in connection with the System provided hereunder. Additionally, Motorola will not be responsible for System performance when the functionality is reduced for reasons beyond Motorola's control including, but not limited to, i) an earthquake, adverse atmospheric conditions or other natural causes; ii) the construction of a building that adversely affects the microwave path reliability or RF coverage; iii) the addition of additional frequencies at System sites that cause RF interference or intermodulation; iv) Purchaser changes to load usage and/or configuration outside the parameters specified in Exhibit C; v) any other act of parties who are beyond Motorola's control, including Purchaser or its employees, contractors, consultants or agents.

C. **EQUIPMENT WARRANTY.** Motorola warrants the Equipment against material defects in material and workmanship under normal use and service during the Warranty Period. Unless otherwise specified in writing, the Warranty Period for non-Motorola manufactured Equipment will be as stated in this Section. At no additional charge and at its option, Motorola will either repair the defective Equipment, replace it with the same or equivalent Equipment, or refund the purchase price of the defective Equipment, and such action on the part of Motorola will be the full extent of Motorola's liability hereunder. Repaired or replaced Equipment is warranted for the balance of the original applicable warranty period. All replaced parts of the Equipment shall become the property of Motorola.

#### THIS WARRANTY DOES NOT APPLY TO

- a) Defects or damage resulting from use of the Equipment in other than its normal and customary manner.
- b) Defects or damage occurring from misuse, accident, liquids, neglect or acts of God.
- c) Defects or damage occurring from testing, maintenance, installation, alteration, modification, or adjustment not provided by Motorola pursuant to this System Purchase Agreement.
- d) Breakage of or damage to antennas unless caused directly by defects in material or workmanship.
- e) Equipment that has been subjected to unauthorized modifications, disassembly or repairs (including the addition to the Equipment of non-Motorola supplied equipment if not authorized by Motorola) which adversely affect performance of the Equipment or interfere with Motorola's normal warranty inspection and testing of the Equipment to verify any warranty claim.
- f) Equipment that has had the serial number removed or made illegible.
- g) Batteries (because they carry their own separate limited warranty).
- h) Freight costs to the repair depot.
- i) Equipment that has been subject to illegal or unauthorized alteration of the software/firmware in the Equipment.



- j) Scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment.
- k) Software.
- l) Normal or customary wear and tear.

D. Motorola Software Warranty. Motorola Software is warranted in accordance with the terms of the Software License Agreement attached as Exhibit B.

E. These express limited warranties as set forth in this Section are extended by Motorola to the original end user purchasing or leasing the System for commercial, industrial, or governmental use only, and are not assignable or transferable. These are the complete warranties for the Equipment and Software provided pursuant to this Agreement.

F. THESE WARRANTIES ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL MOTOROLA BE LIABLE FOR DAMAGES IN EXCESS OF THE PURCHASE PRICE OF THE EQUIPMENT. IN NO EVENT WILL MOTOROLA BE LIABLE FOR ANY LOSS OF USE, LOSS OF TIME, INCONVENIENCE, COMMERCIAL LOSS, LOST PROFITS OR SAVINGS OR OTHER INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE EQUIPMENT, TO THE FULL EXTENT SUCH MAY BE DISCLAIMED BY LAW.

## **Section 12 CONFIDENTIAL INFORMATION**

Motorola proprietary computer programs will be released in accordance with the Software License provisions set forth elsewhere, if applicable. All other material and information of confidential nature marked Motorola PROPRIETARY and/or CONFIDENTIAL will be released as necessary under the following conditions:

- (1) Purchaser shall exercise reasonable and prudent measures to keep these items in confidence.
- (2) Purchaser shall not disclose these items to third parties without prior written permission, unless Motorola makes them public or Purchaser learns them rightfully from sources independent of Motorola, or it is required by law to be disclosed.
- (3) Motorola, where necessary, retains the right to prescribe specific security measures for the Purchaser to follow to maintain the confidentiality.

In the event disclosure of such information is necessary, a separate Non-Disclosure Agreement will be required.

## **Section 13 SOFTWARE LICENSE**

A. Motorola Software. Any Motorola Software furnished will be licensed to Purchaser solely according to the terms and restrictions of the Software License Agreement attached as Exhibit B. Purchaser hereby accepts all of the terms and restrictions of the Software License Agreement.

B. Non-Motorola Software. Any Non-Motorola Software furnished by Motorola will be subject to the terms and restrictions of its copyright owner unless such copyright owner has granted to Motorola the right to sublicense such Non-Motorola Software pursuant to the Software License Agreement, in which case the Software License Agreement (including any addendum to satisfy such copyright owner's requirements) shall apply and the copyright owner will have all of Motorola's rights and protections under the Software License Agreement.

## **Section 14 PATENT INDEMNIFICATION**

A. Motorola will defend at its expense any suit brought against Purchaser to the extent it is based on a third-party claim alleging that the Equipment manufactured by Motorola or the Motorola Software ("Motorola Product")





directly infringes a United States patent or copyright ("Infringement Claim"). Motorola's duties to defend and indemnify are conditioned upon: Purchaser promptly notifying Motorola in writing of the Infringement Claim; Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Purchaser providing to Motorola cooperation and, if requested by Motorola, reasonable assistance in the defense of the Infringement Claim. In addition to Motorola's obligation to defend, and subject to the same conditions, Motorola will pay all damages finally awarded against Purchaser by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Motorola in settlement of an Infringement Claim.

B. If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense: (a) procure for Purchaser the right to continue using the Motorola Product; (b) replace or modify the Motorola Product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Motorola Product and grant Purchaser a credit for the Motorola Product, less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards.

C. Motorola will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Motorola Product with any software, apparatus or device not furnished by Motorola; (b) the use of ancillary equipment or software not furnished by Motorola and that is attached to or used in connection with the Motorola Product; (c) Motorola Product designed or manufactured in accordance with Purchaser's designs, specifications, guidelines or instructions, if the alleged infringement would not have occurred without such designs, specifications, guidelines or instructions; (d) a modification of the Motorola Product by a party other than Motorola; (e) use of the Motorola Product in a manner for which the Motorola Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Purchaser to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from its indemnity obligation to Purchaser extend in any way to royalties payable on a per use basis or the Purchaser's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Motorola from Purchaser from sales or license of the infringing Motorola Product.

D. This Section 14 provides Purchaser's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim. Purchaser has no right to recover and Motorola has no obligation to provide any other or further remedies, whether under another provision of this Agreement or any other legal theory or principle, in connection with an Infringement Claim. In addition, the rights and remedies provided in this Section 14 are subject to and limited by the restrictions set forth in Section 5.

## **Section 15      DISCLAIMER OF PATENT LICENSE**

Nothing contained in this Agreement shall be deemed to grant, either directly or by implication, estoppel, or otherwise, any license under any patents or patent applications of Motorola, except that Purchaser shall have the normal non-exclusive royalty-free license to use that is implied, or otherwise arises by operation of law, in the sale of a product.

## **Section 16      WAIVER**

Failure or delay on the part of Motorola or Purchaser to exercise a right or power hereunder shall not operate as a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the waiving party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

## **Section 17      GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

## **Section 18      ASSIGNABILITY**

Except as provided herein, neither party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the





foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Purchaser. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement..

## **Section 19 SURVIVAL OF TERMS**

The following provisions will survive the expiration or termination of this Agreement for any reason: Section 2 (Taxes); Section 5 (Limitation of Liability); Section 7 (Default); Subsection 11.F (Disclaimer of Implied Warranties); Section 12 (Confidential Information); Section 13 (Software License); and Section 16 (Waiver); Section 17 (Governing Law) and Section 19 (Survival of Terms).

## **Section 20 ADMINISTRATOR LEVEL ACCOUNT ACCESS**

Motorola will provide Purchaser with Administrative User Credentials. Purchaser agrees to only grant Administrative User Credentials to those personnel with the training or experience to correctly use the access. Purchaser is responsible for protecting Administrative User Credentials from disclosure and maintaining Credential validity by, among other things, updating passwords when required. Purchaser may be asked to provide valid Administrative User Credentials when in contact with Motorola System support. Purchaser understands that changes made as the Administrative User can significantly impact the performance of the System. Purchaser agrees that it will be solely responsible for any negative impact on the System or its users by any such changes. System issues occurring as a result of changes made by an Administrative User may impact Motorola's ability to perform its obligations under the Agreement or its Maintenance and Support Agreement. In such cases, a revision to the appropriate provisions of the Agreement, including the Statement of Work, may be necessary. To the extent Motorola provides assistance to correct any issues caused by or arising out of the use of or failure to maintain Administrative User Credentials, Motorola will be entitled to bill Purchaser and Purchaser will pay Motorola on a time and materials basis for resolving the issue.

## **Section 21 MAINTENANCE SERVICE**

If this Agreement contains a Warranty and Maintenance Plan, then, during the Warranty Period, in addition to warranty services, Motorola will provide maintenance services for the Equipment and support for the Motorola Software pursuant to the terms of this Agreement, including the Warranty and Maintenance Plan and Service Terms and Conditions. Such services and support are included in the Contract Price. If Customer wishes to purchase additional maintenance and support services during the Warranty Period, or any maintenance and support services after the Warranty Period, the description of and pricing for such services will be set forth in a separate document. Unless otherwise agreed by the Parties in writing, the terms and conditions applicable to such maintenance and support will be Motorola's standard Service Terms and Conditions, together with the appropriate statements of work.



## **Exhibit B**

### **Software License Agreement**

This Exhibit B, Software License Agreement ("Agreement") is between Motorola Solutions, Inc., ("Motorola"), and \_\_\_\_\_ ("Licensee").

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

#### **Section 1 DEFINITIONS**

1.1 "Designated Products" means products provided by Motorola 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.

#### **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.

#### **Section 3 GRANT OF LICENSE**

3.1. Subject to the provisions of this Agreement and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under Motorola's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.

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. 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 containing the Software. Licensee may make one copy of Software to be used solely for archival, back-up, or disaster recovery purposes; provided that Licensee may not operate that copy of the Software at the same time as the original Software is being operated. Licensee may make as many copies of the Documentation as it may reasonably require for the internal use of the Software.

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 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. 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.

## **Section 5      OWNERSHIP AND TITLE**

Motorola, its licensors, and its suppliers retain all of their proprietary rights in any form in and to the Software and Documentation, including, but not limited to, all rights in patents, patent applications, inventions, copyrights,



trademarks, trade secrets, trade names, and other proprietary rights in or relating to the Software and Documentation (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, emulations to or derivative works from the Software or Documentation, whether made by Motorola or another party, or any improvements that result from Motorola's processes or, provision of information services). No rights are granted to Licensee under this Agreement by implication, estoppel or otherwise, except for those rights which are expressly granted to Licensee in this Agreement. All intellectual property developed, originated, or prepared by Motorola in connection with providing the Software, Designated Products, Documentation or related services, remains vested exclusively in Motorola, and Licensee will not have any shared development or other intellectual property rights.

## **Section 6 LIMITED WARRANTY; DISCLAIMER OF WARRANTY**

6.1. The commencement date and the term of the Software warranty will be a period of ninety (90) days from Motorola's shipment of the Software (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.

6.2 Motorola's sole obligation to Licensee and Licensee's exclusive remedy under this warranty is to use reasonable efforts to remedy any material Software defect covered by this warranty. These efforts will involve either replacing the media or attempting to correct significant, demonstrable program or documentation errors or Security Vulnerabilities. If Motorola cannot correct the defect within a reasonable time, then at Motorola's option, Motorola will replace the defective Software with functionally-equivalent Software, license to Licensee substitute Software which will accomplish the same objective, or terminate the license and refund the Licensee's paid license fee.

6.3. Warranty claims are described in the Primary Agreement.

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.

## **Section 7 TRANSFERS**

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 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**

This Section applies if Licensee is the United States Government or a United States Government agency. Licensee's use, duplication or disclosure of the Software and Documentation under Motorola's copyrights or trade secret rights is subject to the restrictions set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19 (JUNE 1987), if applicable, unless they are being provided to the Department of Defense. If the Software and Documentation are being provided to the Department of Defense, Licensee's use, duplication, or disclosure of the Software and Documentation is subject to the restricted rights set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 (OCT 1988), if applicable. The Software and Documentation may or may not include a Restricted 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 or DFARS mentioned above, as applicable to the particular procuring agency and procurement transaction.

## **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. Licensee will limit access to the Software and Documentation only to Licensee's employees who "need to know" and are authorized to use the Software and Documentation as permitted by this Agreement.

## **Section 11 LIMITATION OF LIABILITY**

The Limitation of Liability provision is described in the Primary Agreement.

## **Section 12 NOTICES**

Notices are described in the Primary Agreement.

## **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, 6.4, 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 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.





## Exhibit C

### Technical and Implementation Documents



## Exhibit D

### Motorola/H-GAC Radio Communications Equipment & Systems Agreement





## **Exhibit E**

### **Service Terms and Conditions**

Motorola Solutions, Inc. ("Motorola") and the customer named in this Agreement ("Customer") hereby agree as follows:

#### **Section 1      APPLICABILITY**

These Service Terms and Conditions apply to service contracts whereby Motorola will provide to Customer either (1) maintenance, support and/or other services under a Motorola Service Agreement, or (2) installation services under a Motorola Installation Agreement.

#### **Section 2      DEFINITIONS AND INTERPRETATION**

2.1 "Agreement" means these Service Terms and Conditions; the cover page for the Service Agreement or the Installation Agreement, as applicable; and any other attachments, all of which are incorporated herein by this reference. In interpreting this Agreement and resolving any ambiguities, these Service Terms and Conditions take precedence over any cover page, and the cover page takes precedence over any attachments, unless the cover page or attachment states otherwise.

2.2 "Equipment" means the equipment that is specified in the attachments or is subsequently added to this Agreement.

2.3 "Services" means those installation, maintenance, support, training, and other services described in this Agreement.

#### **Section 3      ACCEPTANCE**

Customer accepts these Service Terms and Conditions and agrees to pay the prices set forth in the Agreement. This Agreement becomes binding only when accepted in writing by Motorola. The term of this Agreement begins on the "Start Date" indicated in this Agreement.

#### **Section 4      SCOPE OF SERVICES**

4.1. Motorola will provide the Services described in this Agreement or in a more detailed statement of work or other document attached to this Agreement. At Customer's request, Motorola may also provide additional services at Motorola's then-applicable rates for the services.

4.2. If Motorola is providing Services for Equipment, Motorola parts or parts of equal quality will be used; the Equipment will be serviced at levels set forth in the manufacturer's product manuals; and routine service procedures that are prescribed by Motorola will be followed.

4.3. If Customer purchases from Motorola additional equipment that becomes part of the same system as the initial Equipment, the additional equipment may be added to this Agreement and will be billed at the applicable rates after the warranty for the additional equipment expires.

4.4. All Equipment must be in good working order on the Start Date or when additional equipment is added to the Agreement. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment. Customer must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. Customer's obligation to pay Service fees for such Equipment will terminate at the end of the month in which Motorola receives the written notice.

4.5. Customer must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.



4.6. If Equipment cannot, in Motorola's reasonable opinion, be properly or economically serviced for any reason, Motorola may modify the scope of Services related to such Equipment; remove that Equipment from the Agreement; or increase the price to Service such Equipment.

4.7. Customer must promptly notify Motorola of any Equipment failure. Motorola will respond to Customer's notification in a manner consistent with the level of Service purchased as indicated in this Agreement.

## **Section 5 EXCLUDED SERVICES**

Service excludes the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.

Unless specifically included in this Agreement, Service excludes items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes.; upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by such transmission medium.

## **Section 6 TIME AND PLACE OF SERVICE**

Service will be provided at the location specified in this Agreement. When Motorola performs service at Customer's location, Customer will provide Motorola, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. Waivers of liability from Motorola or its subcontractors will not be imposed as a site access requirement. Customer will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Agreement, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Agreement, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services, Customer agrees to reimburse Motorola for those charges and expenses.

## **Section 7 CUSTOMER Contact**

Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable Customer's personnel to maintain contact, as needed, with Motorola.

## **Section 8 PAYMENT**

Unless alternative payment terms are stated in this Agreement, Motorola will invoice Customer in advance for each payment period. All other charges will be billed monthly, and Customer must pay each invoice in U.S. dollars within thirty (30) days of the invoice date. Customer will reimburse Motorola for all property taxes, sales and use taxes, excise taxes, and other taxes or assessments that are levied as a result of Services rendered under this Agreement (except income, profit, and franchise taxes of Motorola) by any governmental entity.

## **Section 9 WARRANTY**

Motorola warrants that its Services under this Agreement will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. In the event of a breach of this warranty, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.



## **Section 10      DEFAULT/TERMINATION**

10.1. If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. The non-performing party will have thirty (30) days thereafter to provide a written plan to cure the default that is acceptable to the other party and begin implementing the cure plan immediately after plan approval. If the non-performing party fails to provide or implement the cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.

10.2. Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by Customer to Motorola will become due and payable immediately upon termination of this Agreement. Upon the effective date of termination, Motorola will have no further obligation to provide Services.

## **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, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Service provided under this Agreement. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT be liable for any commercial loss; inconvenience; loss of use, Time, DATA, GOOD WILL, REVENUES, profits or savings; or other SPECIAL, incidental, INDIRECT, OR consequential damages IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT.** No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than two (2) years after the accrual of such cause of action, except for money due upon an open account. This limitation of liability will survive the expiration or termination of this Agreement and applies notwithstanding any contrary provision.

## **Section 12      EXCLUSIVE TERMS AND CONDITIONS**

12.1. This Agreement supersedes all prior and concurrent agreements and understandings between the parties, whether written or oral, related to the Services, and there are no agreements or representations concerning the subject matter of this Agreement except for those expressed herein. The Agreement may not be amended or modified except by a written agreement signed by authorized representatives of both parties.

12.2. Customer agrees to reference this Agreement on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement will not affect its applicability. In no event will either party be bound by any terms contained in a Customer purchase order, acknowledgement, or other writing unless: the purchase order, acknowledgement, or other writing specifically refers to this Agreement; clearly indicate the intention of both parties to override and modify this Agreement; and the purchase order, acknowledgement, or other writing is signed by authorized representatives of both parties.

## **Section 13      PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS**

13.1. Any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer under this Agreement will remain Motorola's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Motorola's request. Customer may not disclose, without Motorola's written permission or as required by law, any confidential information or data to any person, or use confidential information or data for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section survive the expiration or termination of this Agreement.

13.2. Unless otherwise agreed in writing, no commercial, financial or technical information disclosed in any manner or at any time by Customer to Motorola will be deemed secret or confidential. Motorola will have no obligation to provide Customer with access to its confidential and proprietary information, including cost and pricing data.



13.3. This Agreement does not grant directly or by implication, estoppel, or otherwise, any ownership right or license under any Motorola patent, copyright, trade secret, or other intellectual property including any intellectual property created as a result of or related to the Equipment sold or Services performed under this Agreement.

#### **Section 14 FCC LICENSES AND OTHER AUTHORIZATIONS**

Customer is solely responsible for obtaining licenses or other authorizations required by the Federal Communications Commission or any other federal, state, or local government agency and for complying with all rules and regulations required by such agencies. Neither Motorola nor any of its employees is an agent or representative of Customer in any governmental matters.

#### **Section 15 COVENANT NOT TO EMPLOY**

During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering services under this Agreement. If this provision is found to be overly broad under applicable law, it shall be modified as necessary to conform to such law.

#### **Section 16 MATERIALS, TOOLS AND EQUIPMENT**

All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction.

#### **Section 17 GENERAL TERMS**

17.1. If any court renders any portion of this Agreement unenforceable, the remaining terms will continue in full force and effect.

17.2. This Agreement and the rights and duties of the parties will be governed and interpreted in accordance with the laws of the State of Texas.

17.3. Failure to exercise any right will not operate as a waiver of that right, power, or privilege.

17.4. Neither party is liable for delays or lack of performance resulting from any causes that are beyond that party's reasonable control, such as strikes, material shortages, or acts of God.

17.5. Motorola may assign its rights and obligations, and may subcontract any portion of its performance, under this Agreement.

17.6. If Motorola provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and Customer agrees to pay for those services on a time and materials basis at Motorola's then effective hourly rates.

