

Mobile Radio Pricing Contract Terms

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

AGREEMENT FOR TWO-WAY MOBILE
RADIO EQUIPMENT AND ACCESSORIES

THIS AGREEMENT is entered into and effective the last date executed below by and between the South Carolina Budget and Control Board, Division of State Information Technology (hereinafter referred to as "DSIT" or "STATE"), with its principal offices for the purposes of this Agreement located at 4430 Broad River Road, Columbia, South Carolina 29210 and Harris Corporation, a Delaware corporation, acting through its RF Communications Division (hereinafter referred to as "CONTRACTOR"), with its principal office for purposes of this Agreement located at 221 Jefferson Ridge Parkway, Lynchburg, Virginia 24501.

WHEREAS, STATE desires to enter into an agreement (the "Agreement") for two-way mobile radio subscriber and infrastructure equipment, software, and accessories that are offered for sale by the CONTRACTOR and are proprietary in nature (herein referred to as "exclusive equipment"); and

WHEREAS, STATE desires to include under this Agreement additional two-way mobile radio subscriber and infrastructure equipment, software, and accessories that operate in conjunction with said exclusive equipment, but which are not proprietary in nature (herein referred to as "non-exclusive" equipment); and

WHEREAS, CONTRACTOR is a provider of two-way mobile radio equipment, software, and accessories; and

WHEREAS, both parties are willing to, and do hereby, enter into this Agreement allowing state agencies to purchase hereunder through DSIT, and all other governmental bodies to purchase hereunder as cooperative purchasing units as defined under the provisions of the South Carolina Procurement Code.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements as hereinafter set forth, the parties hereto agree as follows:

1.1 DURATION/OPTION TO RENEW

The initial term of this Agreement is one (1) year from the effective date. At the end of this initial term, and at the end of each renewal term, this Agreement shall automatically renew for a period of one (1) year, unless Contractor receives notice that the State elects not to renew the Agreement at least thirty (30) days prior to the date of renewal. Regardless, in no event shall this Agreement and any extensions extend beyond five (5) years from the effective date of this Agreement.

1.1.1 Type of Agreement. This Agreement is a state term contract for the exclusive equipment provided hereunder (see Section 2.1 and Exhibit 1) for a specified time period for which it is mandatory that State governmental bodies procure their requirements for such equipment during its term. If a State governmental body or agency is offered a price that is ten percent (10%) less than the contract price for the same equipment, it may purchase from the vendor offering the lower price unless CONTRACTOR meets the lower price. In all such instances, CONTRACTOR shall be offered an opportunity to meet the offered price.

1.1.2. Who May Purchase from this Agreement. STATE and all "governmental bodies" (as defined in the South Carolina Consolidated Procurement Code, Section 11-35-310(18)) and local

political subdivisions may use this Agreement to purchase available products and services offered by CONTRACTOR. If permitted under the laws of South Carolina and of the applicable other State, any government body in any neighboring State may use this Agreement to purchase from CONTRACTOR the products and services offered under this Agreement. The term "STATE" or "purchaser" as used in this Agreement and as indicated by the context shall include the government body that is purchasing from this Agreement. With respect to each purchase order issued by a purchaser pursuant to this Agreement, CONTRACTOR and the purchaser will perform their respective contractual responsibilities in accordance with this Agreement.

1.2 REVISION REQUIREMENTS

The STATE shall receive the standard documentation and manuals for equipment acquired under this Agreement, at no additional cost. This includes corrections to instruction manuals information describing software upgrades, newly developed capabilities, etc.

1.3 ACCEPTANCE/WARRANTY/MAINTENANCE

1.3.1 Except in transactions where the terms "Final Project Acceptance" have specific meanings and are determined with reference to the successful passage of Acceptance Tests, acceptance will occur as follows:

Products are accepted when they are physically delivered to the purchaser (i.e., the purchaser or its representative is in possession of the products). The purchaser has no duty to accept non-conforming goods or goods that were damaged in transit. The purchaser must inform the CONTRACTOR of the non-conforming goods or goods damaged in transit within thirty (30) days.

Services purchased under this Agreement are accepted when they are correctly completed and, if the statement of work so provides, approved by purchaser.

1.3.2 As more fully set forth in Section 1.12 below, CONTRACTOR shall provide a warranty on all equipment of at least one (1) year including parts and labor, and shall use reasonable efforts to ensure the availability of maintenance and on-going services, including the availability of parts. Specifically as to parts, CONTRACTOR will use commercially reasonable efforts to provide replacement parts for its manufactured subscriber equipment for five (5) years and for its manufactured fixed infrastructure equipment for seven (7) years, both from the date of last manufacture. The CONTRACTOR reserves the right to supply either assemblies or piece parts. Additionally, CONTRACTOR will notify STATE promptly upon receiving notice of the cancellation of any products provided hereunder, and will offer STATE an opportunity for a "last time buy" or recommend an alternate approach to obtaining the same support/service.

1.3.3 CONTRACTOR must maintain authorized service centers within the State during the life of this Agreement. These authorized service centers must be able to support the entire geography of the State within a two (2) hour response. These authorized service centers must be qualified to install and maintain complete communications systems which are the subject of this Agreement including, but not limited to:

- A. Mobile transmitters and receivers
- B. Base stations
- C. Mobile relays
- D. Mobile control stations
- E. Duplexers, cavities and filters
- F. Facilities for repairing DES Radios

1.3.4 All service centers must maintain test equipment required for trouble shooting, alignment, tuning, frequency checks, power output checks, and any other checks necessary to maintain equipment acquired under this Agreement to manufacturer's technical specifications.

1.3.5 Software updates (enhancement releases) for the purpose of correcting CONTRACTOR'S errors will be provided to STATE as part of the warranty provided in Section 1.3.2 above, and as part of an annual software subscription program after warranty, if such software subscription program is purchased by STATE.

1.3.6 Other, new software and hardware releases not provided as part of warranty or maintenance as hereinabove specified must be presented to STATE with full documentation no later than ninety (90) days after they become available. The presentation of proposals to STATE concerning such software/hardware shall state whether the releases/changes are to be installed by CONTRACTOR or by STATE and show total prices to be charged to STATE. Procurement and/or installation of fully tested software will be at the sole discretion of STATE.

1.3.7 In equipment transactions, CONTRACTOR and the purchaser will address any additional warranty or maintenance issues that are relevant to that equipment transaction, but in no event shall the warranty be less than what is provided in this Agreement.

1.3.8 CONTRACTOR warrants that all authorized service centers that will service the equipment are staffed with individuals who have been fully trained and certified by the manufacturer as qualified to service the equipment. Each authorized service center must employ at least one full-time technician who is ETA certified, and is engaged exclusively in two-way communications and related electronics service work. CONTRACTOR shall use reasonable efforts to ensure the availability of full factory-trained service support for at least five (5) years from the date that any such equipment is placed in service.

1.3.9 CONTRACTOR guarantees that maintenance shall be available for purchase twenty-four (24) hours per day, seven (7) days per week. For the purpose of this Agreement and for the price paid therefore, CONTRACTOR must provide regular maintenance coverage which shall be from 8:00 a.m. to 5:00 p.m. Eastern Standard Time or Eastern Daylight Time Monday through Friday, excluding normal holidays. CONTRACTOR agrees to provide to STATE additional coverage, as requested, either on a time and materials basis or such other terms and conditions as agreed to between the parties. Response time to an emergency must not exceed four (4) hours from the time of the call from the agency to the time CONTRACTOR'S personnel report at the site, regardless of time called.

1.3.10 If CONTRACTOR determines that equipment under warranty or maintenance cannot be repaired or returned to service within three (3) working days after STATE notifies CONTRACTOR of equipment malfunction, CONTRACTOR or an authorized service center shall immediately advise STATE upon that determination, verbally and in writing, as to why the equipment has not been repaired and when such repair and return shall be completed.

1.3.11 Reasonable quantities of parts not specifically provided under continuing maintenance, such as replacements for stolen or damaged equipment, shall be made available within five (5) working days after notification by STATE.

1.3.12 Except to its authorized service centers, CONTRACTOR shall not subcontract, assign, or transfer its responsibility to perform, or its actual performance, of any work or maintenance without first obtaining the express written consent of STATE, which will not be unreasonably withheld or delayed. The foregoing shall not apply to the purchase of raw materials, parts or components from subcontractors or vendors furnishing such material to be incorporated in exclusive equipment to be provided by CONTRACTOR when such materials, parts or components are purchased by CONTRACTOR in its normal course of business.

1.3.13 Prior to filling any customer order, CONTRACTOR must advise STATE of any additional requirements of which CONTRACTOR knows or should know to make the equipment provided hereunder work as part of the statewide two-way radio system, including any upgrades and/or changes required.

1.3.14 If STATE elects to maintain the equipment or accessories (self-maintenance) in whole or in part, CONTRACTOR will provide STATE, at no charge, with ten (10) copies of documentation and manuals for the subject equipment and/or accessories as listed in the attached exhibit 1. CONTRACTOR will provide STATE with a list of recommended spare parts, test equipment, and the like. A purchaser's self-maintenance will not void or otherwise infringe upon its ability to request CONTRACTOR to resume maintenance of the equipment at some later time.

1.3.15 If a transaction under this Agreement involves site access services, the statement of work will indicate which party is responsible for necessary access rights to the work sites, and the like. If a transaction under this Agreement involves site condition or modification services, then (unless the statement of work clearly indicates the contrary) the party who leases or owns the site will be responsible to ensure that the site is safe, secure, and in compliance with all applicable industry and safety standards; and to the extent applicable, that the work site has adequate physical space, air conditioning and other environmental conditions, electrical power outlets, distribution and equipment and telephone or other communication lines (including modem access and adequate interfacing networking capabilities) all for the proper installation, use and maintenance of the products. If a transaction under this Agreement involves vehicles (e.g., installation of mobile radios in vehicles), purchaser is responsible for providing timely access to the vehicles as reasonably requested by CONTRACTOR so that it may perform its contractual duties.

1.4 OTHER REQUIRED SPECIFICATIONS

1.4.1 CONTRACTOR shall make available to any requesting agency the normal published technical specifications and product brochures of the equipment offered under this Agreement.

1.4.2 CONTRACTOR will show on the outside of the shipping container the purchase order number, as well as the model of equipment contained in the shipping container. If this information is not shown on the shipping container, CONTRACTOR will assist purchaser in tracking this information.

1.5 MANUALS

The CONTRACTOR must make available at least one (1) manual that details the operational, technical and maintenance requirements of the equipment and/or accessories being purchased, at no additional expense to the purchaser.

1.6 TRAINING

As requested by the purchaser, CONTRACTOR will offer on-site or factory training. If so requested, CONTRACTOR will prepare a training statement of work and the pricing for the offered training.

1.7 PURCHASE ORDERS/HOW TO PURCHASE

1.7.1 Products Other than Software. The STATE or any other purchaser eligible to purchase available equipment, parts or other hardware products from this Agreement may do so by issuing a Purchase Order or similar purchasing document. Each Purchase Order must refer to this Agreement and must specify the pricing and delivery terms for the products. If the purchaser issues a Purchase Order for equipment, parts or other hardware products offered under this Agreement, then the CONTRACTOR will accept and fulfill the order if the products are then available. The terms and conditions of this Agreement will apply notwithstanding any different or additional terms and conditions set forth in the Purchase Order or in CONTRACTOR'S order acknowledgement, and such different or additional terms and conditions shall have no effect on the order unless they are mutually agreed in a document that is executed by both parties. Each Purchase Order will indicate both the address to which the products should be shipped and the address to which invoices should be sent.

1.7.2 Software Products. The STATE or any other purchaser eligible to purchase available software products from this Agreement may do so by issuing a Purchase Order or similar purchasing document. Each Purchase Order must refer to this Agreement and must specify the pricing and delivery terms for the software products. If the purchaser issues a Purchase Order for software products offered under this Agreement, then the CONTRACTOR will accept and fulfill the order if the software products are then available. The terms and conditions of this Agreement and the applicable standard Software License Agreement will apply to the transaction (including subsequent software releases) notwithstanding any different or additional terms and conditions set forth in the Purchase Order or in CONTRACTOR'S order acknowledgement, and such different or additional terms and conditions shall have no effect on the order unless they are mutually agreed in a document that is executed by both parties. If the software is owned by CONTRACTOR, then CONTRACTOR'S applicable standard Software License Agreement, a copy of which is attached hereto as Exhibit 2 will apply. If the software is owned by a third party (including any open source software or "freeware"), then the owner's applicable standard software license agreement will apply unless the owner and the STATE have agreed to an applicable master software license agreement in which case it applies. CONTRACTOR will use reasonable commercial efforts to provide to the purchaser upon written request a copy of the owner's applicable standard software license agreement. Notwithstanding the preceding sentence, if the purchase order involves application software owned by a third party that is licensed pursuant to the owner's applicable standard software license agreement, CONTRACTOR will advise purchaser of this fact before accepting the purchase order so that purchaser may request, receive, review and amend if needed in advance the software license agreement. Each Purchase Order will indicate both the address to which the products should be shipped and the address to which invoices should be sent. This Agreement involves only software in object code and does not involve the license of any source code.

1.7.3 Services. The STATE or any other purchaser eligible to purchase offered maintenance, installation, removal, or other specified recurring services from this Agreement may do so by issuing a Purchase Order or similar purchasing document. Each Purchase Order must refer to this Agreement and must specify the pricing and performance terms or schedule for the services. If the purchaser issues a Purchase Order for such services offered under this Agreement, then the CONTRACTOR will accept and fulfill the order. Before issuing a Purchase Order for such offered services, the parties will mutually determine if a Statement of Work or other description of the services or any special provisions (e.g., a project schedule) applicable to the specific services will be needed for the transaction. In determining whether a Statement of Work or special provisions are needed, the parties will consider the purchaser's existing radio communications systems, equipment and software, and any apparent compatibility, interconnectivity and versatility issues. The terms and conditions of this Agreement will apply notwithstanding any different or additional terms and conditions set forth in the Purchase Order or in CONTRACTOR'S order acknowledgement, and such different or additional terms and conditions shall have no effect on the order unless they are mutually agreed in a document that is executed by both parties. If as described in this paragraph the parties determine that a Statement of Work is needed, then the Statement of Work will be attached to and be part of the Purchase Order. If as described in this paragraph the parties determine that special provisions or different or additional terms and conditions are needed, then the parties will so indicate their agreement by stating them in (or attaching them to) the Purchase Order and mutually executing the Purchase Order. CONTRACTOR'S execution may be indicated by a written and signed acknowledgement of the Purchase Order that specifically indicates the CONTRACTOR accepts the special provisions or different or additional terms and conditions. Each Purchase Order will indicate the address to which invoices should be sent.

1.7.4 Systems. The STATE or any other purchaser eligible to purchase from this Agreement may purchase radio communications or related systems or subsystems offered by CONTRACTOR under this Agreement, provided that the system transaction is to enable the purchaser to expand or upgrade the Palmetto 800 system, Palmetto 800 Mobile DATA System or Statewide Conventional 800 MHz System. The determination of whether radio communications or related

systems or subsystems offered by CONTRACTOR enable the purchaser to expand or upgrade the Palmetto 800 system, Palmetto 800 Mobile DATA System or Statewide Conventional 800 MHz System shall be made in the sole discretion of DSIT. To offer a system, the CONTRACTOR must first determine in conjunction with DSIT the eligibility of the proposal under this agreement. If it is determined that the proposal is eligible, CONTRACTOR must prepare and submit to the purchaser a proposal (including an equipment list, acceptance test plan, project schedule, etc.). Such proposal must be signed by CONTRACTOR and will be a binding offer to sell the system as provided in the proposal. To the extent applicable, CONTRACTOR'S pricing for the products and services that are contained in the system proposal will be consistent with the pricing set forth in this Agreement, although CONTRACTOR may offer a system or other discount. After the purchaser reviews the system proposal, CONTRACTOR will use reasonable efforts to answer any questions raised by the purchaser and the parties will negotiate in good faith any open issues. Also, the purchaser may but is not required to issue a Purchase Order to indicate it has appropriated sufficient funds for the purchase or for other reasons required by the purchaser's procurement rules. The terms and conditions of this Agreement will apply notwithstanding any different or additional terms and conditions set forth in the Purchase Order or in CONTRACTOR'S order acknowledgement, and such different or additional terms and conditions in the Purchase Order shall have no effect.

1.7.5 On-Line Ordering. A purchaser may register with and place orders through the CONTRACTOR'S online ordering tool and this Agreement will be the "Underlying Agreement" for those transactions rather than the CONTRACTOR'S On-Line Terms and Conditions of Sale. The CONTRACTOR'S On-Line ordering registration and other information may be found at <PROVIDE URL AND TELEPHONE NUMBER HERE 1-800-368-3277 >.

1.7.6 Designation of Shipping Destination. Concerning each Purchase Order for equipment or other goods, the purchaser shall designate in the Purchase Order (or otherwise communicate in writing to CONTRACTOR) a "ship to" address so that CONTRACTOR may ship the products to the correct purchaser location.

1.8 MODIFICATION/CHANGE ORDERS

Any change orders, alterations, amendments or other modifications hereunder shall not be effective unless reduced to writing, signed by the STATE and CONTRACTOR, and executed with the same formality as this Agreement. Either party may request a change order.

1.9 ENHANCEMENTS AND UPGRADES

Any enhancements or model upgrades will be made available by CONTRACTOR to the STATE under the terms and conditions of this Agreement. No equipment shall be added to this Agreement until accepted in writing by the STATE.

1.10 PATENT LIABILITY AND INDEMNIFICATION

1.10.1 Without limitation and notwithstanding any provision in this agreement, CONTRACTOR shall, upon receipt of notification, defend and indemnify the STATE, its instrumentalities, agencies, departments, boards, political subdivisions, and any entity purchasing under this Agreement and all their respective officers, agents and employees against all actions, proceedings or claims of any nature (and all damages, settlement payments, reasonable attorneys' fees, costs, expenses, losses or liabilities attributable thereto) by any third party asserting or involving an intellectual property right related to items and services acquired under this Agreement. ("Infringement Claim") STATE shall allow CONTRACTOR to defend such claim so long as the defense is diligently and capably prosecuted. STATE shall allow CONTRACTOR to settle such claim so long as (i) all settlement payments are made by CONTRACTOR, and (ii) the settlement imposes no non-monetary obligation upon STATE. STATE shall reasonably cooperate with CONTRACTOR's defense of such claim.

1.10.2 In the event due to an Infringement Claim an injunction or order shall be obtained against the STATE'S use of any acquired item, or if in CONTRACTOR's opinion, the acquired item is or is likely to become the subject of an Infringement Claim, CONTRACTOR shall at its expense, either: (1) procure for the STATE the right to continue to use, or have used, the acquired item, or (2) replace or modify the acquired item so that it becomes non-infringing but only if the modification or replacement does not adversely affect the specifications for the acquired item or its use by the STATE. If neither (1) nor (2), above, is practical, CONTRACTOR will remove the acquired item and accept its return, and provide to the STATE a full refund of any charges paid for the acquired item and take all steps necessary to have the STATE released from any further liability.

1.10.3 CONTRACTOR's obligations under this paragraph do not apply to an Infringement Claim to the extent (i) that the claim is caused by CONTRACTOR's compliance with specifications furnished by the STATE unless CONTRACTOR knew its compliance with the STATE'S specifications would result in an Infringement Claim, or (ii) that the claim is caused by CONTRACTOR's compliance with specifications furnished by the STATE if the STATE knowingly relied on a third party's IP right to develop the specifications provided to CONTRACTOR and failed to identify such product to CONTRACTOR; or (iii) that the claim is based upon: (a) the combination of the acquired item with any software, apparatus or device not furnished by CONTRACTOR; (b) the use of ancillary equipment or software not furnished by CONTRACTOR and that is attached to or used in connection with the acquired item; (c) a modification of the acquired item by a party other than CONTRACTOR; (d) use of the acquired item in a manner for which it was not designed or that is inconsistent with the terms of this Agreement; or (e) the failure by the STATE to install a software enhancement release that is intended to correct the claimed infringement.

1.10.4. CONTRACTOR's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of this Agreement

1.11 GENERAL INDEMNIFICATION

CONTRACTOR shall defend and indemnify the STATE, its instrumentalities, agencies, departments, boards, political subdivisions and any entity purchasing under this Agreement and all their respective officers, agents and employees against all suits or claims of any nature (and all damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities attributable thereto) by any third party which and to the extent they arise out of, or result in any way from, any defect in the goods or services acquired hereunder or from any negligent act or omission of CONTRACTOR, its subcontractors, their employees, workmen, servants or agents. CONTRACTOR shall be given written notice of any suit or claim. STATE shall allow CONTRACTOR to defend such claim so long as such defense is diligently and capably prosecuted through legal counsel. STATE shall allow CONTRACTOR to settle such suit or claim so long as (i) all settlement payments are made by (and any deferred settlement payments are the sole liability of) CONTRACTOR, and (ii) the settlement imposes no non-monetary obligation upon STATE.. STATE shall not admit liability or agree to a settlement or other disposition of the suit or claim, in whole or in part, without the prior written consent of CONTRACTOR. STATE shall reasonably cooperate with CONTRACTOR'S defense of such suit or claim. The obligations of this paragraph shall survive termination of this Agreement.

1.12 WARRANTY/REMEDIES

The CONTRACTOR warrants that any equipment, services, goods and/or supplies provided to the STATE as a result of this Agreement complies with all manufacturer's or service provider's published specifications and with the provisions of this section below. The CONTRACTOR shall be responsible for the full performance hereunder of any subcontractor's equipment, services and/or supplies (except as otherwise provided in Section 1.12.2 concerning third party software), and the STATE shall solely rely upon CONTRACTOR for performance. In no instance shall any

remedies provided exceed the total cost of the equipment and services hereunder, except in instances of material misrepresentation or fraud.

1.12.1 EQUIPMENT WARRANTY. For one (1) year from the date of delivery, CONTRACTOR warrants that the Equipment will be free from material defects in materials and workmanship under normal use and service and will conform to the manufacturer's published products specifications.

1.12.2 SOFTWARE WARRANTY. For one (1) year from the date of delivery, CONTRACTOR warrants the CONTRACTOR Software in accordance with the terms of the Software License Agreement and the provisions of this Section that are applicable to the CONTRACTOR Software. The term "CONTRACTOR Software" means software in object code format, the copyright of which is owned by CONTRACTOR or its affiliated companies. CONTRACTOR makes no warranties for software the copyright owner of which is someone other than CONTRACTOR or its affiliated companies; such third party software is licensed and warranted under the copyright owner's standard software license agreement.

1.12.3 PARTS WARRANTY. For one (1) year from the date of delivery, CONTRACTOR warrants that component parts and boards that it manufactures and provides under this Agreement will be free from material defects in materials and workmanship under normal use and service.

1.12.4 SERVICES WARRANTY. For one (1) year from the date of acceptance, CONTRACTOR warrants that services provided under this Agreement were performed in a good and workmanlike manner consistent with applicable industry standards.

1.12.5 WARRANTY CLAIMS. To assert a warranty claim, the purchaser must notify CONTRACTOR in writing of the claim before the expiration of the applicable warranty period. Upon receipt of this notice, CONTRACTOR will promptly investigate the warranty claim. If this investigation confirms a valid warranty claim, CONTRACTOR will (at its option and at no additional charge to the purchaser) repair the defective product, replace it with the same or equivalent product, or refund the price of the defective product; or, if the claim involves the services warranty, CONTRACTOR will re-perform the services. That action will be the full extent of CONTRACTOR'S liability for the warranty claim. Repaired or replaced product is warranted for the balance of the original applicable warranty period; provided that the repair will be warranted for at least one hundred eighty (180) days. All replaced products or parts will become the property of CONTRACTOR.

1.12.6 EXCLUSIONS TO WARRANTIES. These warranties do not apply to: (i) defects or damage resulting from: use of the product in other than its normal, customary, and authorized manner; accident, liquids, neglect, or acts of God; testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by CONTRACTOR; the purchaser's failure to comply with all applicable industry and OSHA standards; (ii) breakage of or damage to antennas unless caused by defects in material or workmanship; (iii) equipment that has had the serial number removed or made illegible for malicious reasons; (iv) batteries (because they carry their own separate limited warranty) or consumables; (v) scratches or other cosmetic damage to equipment surfaces that does not affect the operation of the equipment; and (vi) normal or customary wear and tear.

1.13 PRICE CHANGES

As and when requested by the STATE, CONTRACTOR and the STATE will periodically discuss CONTRACTOR'S published price book and any known or projected changes to the price book (e.g., price increases or decreases, new product additions, and the like). If CONTRACTOR announces a price increase over 3% per calendar year (cumulative) on subscriber radios, consoles, fixed base stations, and any other commonly purchased CONTRACTOR-manufactured equipment as mutually agreed, then CONTRACTOR will notify the STATE of such increase as soon as possible and the STATE will have at least sixty (60) days from the date of notice before

such price increase becomes effective, Subject to the preceding sentence, if the CONTRACTOR makes a change in its published price list for products during the term of this Agreement, then the pricing under this Agreement offered to the STATE shall automatically become the adjusted price then in effect for all products purchased thereafter. All price adjustments will be properly documented.

As set forth in the exhibit 1, pricing for services will be based on hourly rates unless otherwise indicated in a written proposal. During the first three (3) years of this Agreement, the rates are fixed and CONTRACTOR will not increase the prices/rates for services. After the third year, CONTRACTOR may adjust its prices/rates for services based upon the good faith negotiation and mutual agreement of the STATE and CONTRACTOR, taking into consideration inflation and any other relevant factors. Adjusted prices/rates will become effective for services performed after the date of the mutually agreed adjustment. All price adjustments will be properly documented.

1.14 ADVERTISING USE AND REPRESENTATION

CONTRACTOR agrees not to refer to awards in commercial advertising in such a manner as to STATE or imply that the product or service provided is endorsed or preferred by the STATE and is considered by the STATE to be superior to other products or services. The STATE reserves the right to review and approve any commercial advertising wherein the STATE'S use of CONTRACTOR'S equipment, services and/or supplies under this Agreement is referenced. Such review shall be timely and approval shall not be unreasonably withheld or delayed.

1.15 INSURANCE

1.15.1 CONTRACTOR shall purchase from and maintain in a company or companies lawfully authorized to do business in South Carolina such insurance as will protect the CONTRACTOR from the types of claims set forth below which may arise out of or result from the CONTRACTOR'S operations under the contract and for which the CONTRACTOR may be legally liable, whether such operations be by the CONTRACTOR or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the work to be performed; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of the CONTRACTOR'S employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than the CONTRACTOR's employees; (d) claims for damages insured by usual personal injury liability coverage; (e) claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (f) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; (g) claims for bodily injury or property damage arising out of completed operations; and (h) claims involving contractual liability insurance applicable to the CONTRACTOR'S obligations under the provision entitled General Indemnification.

1.15.2 Coverage shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the work until date of final payment. Coverage must include the following on a commercial basis: (i) Premises – Operations, (ii) Independent Contractor's Protective, (iii) Products and Completed Operations, (iv) Personal and Advertising Injury, (v) Contractual, including specific provision for CONTRACTOR'S obligations under the provision entitled General Indemnification, (vi) Broad Form Property Damage including Completed Operations, and (vii) Owned, Non-owned and Hired Motor Vehicles.

1.15.3 The insurance required by this paragraph shall be written for not less than the following limits of liability or as required by law, whichever coverage is greater.:

COMMERCIAL GENERAL LIABILITY:

General Aggregate (per project) \$1,000,000

Products/Completed Operations \$1,000,000

Personal and Advertising Injury \$1,000,000
Each Occurrence \$1,000,000
Fire Damage (Any one fire) \$ 50,000
Medical Expense (Any one person) \$ 5,000
BUSINESS AUTO LIABILITY (including All Owned, Nonowned, and Hired Vehicles):
Combined Single Limit \$1,000,000
OR
Bodily Injury & Property Damage (each) \$750,000
WORKER'S COMPENSATION:
State Statutory
Employers Liability \$100,000 Per Acc.
\$500,000 Disease, Policy Limit; \$100,000 Disease, Each Employee

1.15.4 Required Documentation. (a) Prior to commencement of the work, CONTRACTOR shall provide to the state a signed, original certificate of liability insurance (ACORD 25). The certificate shall identify the types of insurance, state the limits of liability for each type of coverage, include a provision for 30 days notice prior to cancellation, name the STATE and every purchaser as a Certificate Holder, provide that the general aggregate limit applies per project, and provide that coverage is written on an occurrence basis. (b) Prior to commencement of the work, CONTRACTOR shall provide to the STATE a written endorsement to the CONTRACTOR'S general liability insurance policy that (i) names the STATE and every purchaser as an additional insured, (ii) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the STATE and named purchasers have been given at least thirty (30) days prior written notice, and (iii) provides that the CONTRACTOR's liability insurance policy shall be primary, with any liability insurance of the STATE as secondary and noncontributory. (c) Both the certificate and the endorsement must be received directly from either the CONTRACTOR's insurance agent or the insurance company.

1.15.5 CONTRACTOR shall provide a minimum of thirty (30) days written notice to the STATE and every purchaser of any proposed reduction of coverage limits (on account of revised limits or claims paid under the General Aggregate) or any substitution of insurance carriers.

1.15.6 The STATE'S failure to demand either a certificate of insurance or written endorsement required by this paragraph is not a waiver of CONTRACTOR's obligations to obtain the required insurance.

1.16 CONTRACTOR SOLELY RESPONSIBLE FOR PERFORMANCE

1.16.1 CONTRACTOR will be solely responsible for performance of its obligations under this Agreement. The STATE will rely upon the CONTRACTOR for full, complete, and satisfactory performance under the terms and conditions of this Agreement and for any relief which may be requested by the STATE to CONTRACTOR or judgment which may be entered against the CONTRACTOR in any litigation which may arise under this Agreement or the relationship between the parties.

1.16.2 If CONTRACTOR'S services provided for hereunder include services, equipment, or materials supplied by a subcontractor, CONTRACTOR must act as the prime contractor for these items and assume full responsibility for performance hereunder. Thus, the CONTRACTOR will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements. Notwithstanding the provisions of this section, if CONTRACTOR provides software the copyright of which is owned by another party, then the applicable standard end user software license agreement of the copyright owner applies as to that software.

1.16.3 In the event CONTRACTOR is unable for any reason to provide any material, services, supplies, products or other items of any type or variety to the STATE under this Agreement,

including but not limited to any such materials, services, supplies, etc. available from any other party (such as subcontractors) supplying said materials, services, etc. to CONTRACTOR, the STATE will have the right to deal directly with the other supplier without penalty or interference from CONTRACTOR. Further, any additional cost of cover to the STATE arising as a result shall be borne by CONTRACTOR unless the reason for such inability is a force majeure and except as set forth in Section 1.10.2 of this Agreement.

1.17 CONTRACTOR REPRESENTATION

CONTRACTOR must maintain a Harris employed sales representative and service representative assigned to the State of South Carolina for the term of this Agreement. These persons will be responsible for assisting in the design, development and selection of equipment for agencies acquiring equipment under this Agreement. CONTRACTOR will also furnish the STATE any additional technical and/or engineering assistance that may be needed to install or operate communications equipment supplied pursuant to this Agreement; however, this does not require full time professional engineering personnel. CONTRACTOR may charge for engineering or other professional services.

1.18 FCC LICENSING

The CONTRACTOR shall assist any agency acquiring equipment under this agreement in obtaining the necessary FCC Licenses, and any other Licenses or permits required. CONTRACTOR may charge for engineering or other professional services related to FCC Licenses or permits.

1.19 REPORTS

Upon request, CONTRACTOR agrees to provide, at no extra charge to STATE, quarterly reports showing utilization, by agency under this Agreement. These reports and the format thereof, shall be designed and mutually agreed upon by the parties, but shall depict and display over time the utilization by agencies including the equipment, features and functions used.

1.20. FORCE MAJEURE

1.20.1 Neither CONTRACTOR nor the STATE shall be liable for delays or lack of performance if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the non-performing party. Such causes may include, but are not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

1.20.2 If CONTRACTOR'S failure to perform is caused by the default of a subcontractor, and such default arises out of causes beyond the control of both the CONTRACTOR and subcontractor, and without the fault or negligence of either of them, the CONTRACTOR shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the required delivery schedule.

1.20.3 If CONTRACTOR shall, as a result of any unavoidable delay, fail to substantially perform essential obligations hereunder and should said delay exceed thirty (30) days after receipt of notice from the STATE, the STATE may terminate the services(s) or supplies or any portion hereof without termination charges or any other liability except for equipment already acquired or services already performed under this Agreement before the termination.

1.21 DISPUTES

The parties will attempt to settle any dispute arising from this Agreement (except for a claim relating to intellectual property or breach of confidentiality) through consultation and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. If such efforts are unsuccessful, all disputes will be resolved pursuant to S.C. Code Section 11-35-4230. To the extent that Section 11-35-4230 does not govern any dispute hereunder, CONTRACTOR agrees that any such dispute shall be instituted and maintained only in a state or federal court located in Richland County, State of South Carolina. Contractor agrees that any act by the State regarding this Agreement is not a waiver of either the State's sovereign immunity or the State's immunity under the Eleventh Amendment of the Constitution of the United States. As used in this Section, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by this Agreement.

1.22 LATENT DEFECTS

STATE shall have the rights related to latent defects provided for pursuant to S.C. Code Section 11-35-4230.

1.23 Liability For Damages CONTRACTOR'S liability for damages to the STATE or any governmental entity purchasing under this Agreement for any cause whatsoever, and regardless of the form of action, whether in contract or tort, shall not exceed, in the aggregate, an amount equal to \$5,000,000.00 for the initial contract year. Commencing on the first annual anniversary of the execution date of this Agreement and on each annual anniversary thereafter, CONTRACTOR'S liability for damages per contract year shall increase by an amount equal to 10% of the CONTRACTOR'S liability for damages for the immediately preceding contract year. This limitation of liability shall not apply to (i) CONTRACTOR'S obligations under the clauses entitled "Patent Liability and Indemnification" and "General Indemnification", (ii) bodily injury or death caused by CONTRACTOR'S negligence, and (iii) damages arising from CONTRACTOR'S gross negligence or willful misconduct.

The obligations and liabilities of each governmental entity purchasing pursuant to this Agreement are independent of every other governmental entity's obligations and liabilities. The maximum liability, if any, for damages, regardless of type, of any individual governmental entity purchasing pursuant to this Agreement shall in no event exceed an amount equal to the cumulative price paid by that individual governmental entity to CONTRACTOR for the goods and services acquired pursuant to this Agreement.

2.1 PRICING

The equipment included under this Agreement shall be divided into one of two categories as follows:

Exclusive - This category contains equipment (pre-approved by DSIT) that is offered for sale by CONTRACTOR, is proprietary in nature, and is used on a frequent basis by State governmental bodies. This proprietary equipment is subject to Section 1.1.1 of this Agreement, and as such, it is mandatory that State governmental bodies purchase this equipment from this Agreement, unless the State governmental body obtains a price for the same equipment that is ten percent (10%) less than the price quoted herein. In all such instances, CONTRACTOR shall be offered the opportunity and reasonable time to meet the offered price. Prices for "exclusive" equipment are included in Exhibit 1 of this document.

Non-exclusive - This category contains equipment (pre-approved by DSIT) available through CONTRACTOR, but which is non-proprietary in nature, and is used on an infrequent basis by State governmental bodies. This equipment is not subject to Section 1.1.1 of this Agreement, and may be acquired from this Agreement at the sole option of the State governmental body. Prices for "non-exclusive" equipment are included in Exhibit 1 of this document.

2.1.1 Unless otherwise stated in the applicable pricing exhibit, CONTRACTOR'S prices for both exclusive and non-exclusive equipment shall be a Percentage Discount from CONTRACTOR'S

current nationally published prices. Nationally published prices are those prices used in selling to the general public and made available to and used by CONTRACTOR'S commercial salesmen in their day to day sales activity. The Percentage Discount for equipment covered under this Agreement is shown in Exhibit 1.

2.1.2 Where special applications may require factory modification of a standard model of equipment, the STATE retains the right to negotiate with the CONTRACTOR as to prices for the equipment involved. Such modifications shall include, but are not limited to: adding third or fourth receivers to base stations; providing features of one series or model to be added to another series model to accomplish a specific and required need that the original model will not satisfy. These modifications will be limited to modifications that must be done at time of manufacture.

2.1.3 The STATE recognizes individuality of certain equipment installations and shall permit State agencies to negotiate installation prices on a case by case basis of any equipment purchased that may require special service expertise. In addition to mobiles, items such as antennas, transmission lines, special duplexers, and antenna support structures fall into this category, and may, at the purchaser's option, be negotiated with CONTRACTOR.

2.1.4 Prices for engineering services other than these needed to install or operate communications equipment supplied pursuant to this Agreement are established under this Agreement on an hourly basis. This will allow agencies to acquire these services based on need and the agencies' level of expertise.

2.1.5. Installation and maintenance services for equipment purchased from the Agreement must be available from CONTRACTOR for the duration of this Agreement and any renewal hereunder. The installation and maintenance services and prices are included in Exhibit 1 of this Agreement. Maintenance contracts or agreements shall be agreed to on a case by case basis and shall be between the CONTRACTOR and the using State agency. All maintenance contracts must be under CONTRACTOR'S direct supervision.

2.1.6 CONTRACTOR shall, as part of this Agreement, also be allowed to provide non-exclusive installation and removal of, as well as first echelon preventive maintenance services on, various types of electronic auxiliary equipment (e.g., radars, sirens, blue lights and mobile data terminals), as agreed upon by CONTRACTOR and a State agency. This may, in some cases, be equipment manufactured by vendors other than the CONTRACTOR. Installation or removal, as well as first echelon preventive maintenance, of such equipment shall be performed at CONTRACTOR'S authorized service centers across the State. The State agency will establish with CONTRACTOR a maintenance agreement for installation and removal, as well as first echelon preventive maintenance and repairs, for electronic auxiliary equipment (e.g., radars, sirens, blue lights and mobile data terminals). CONTRACTOR and the agency may also negotiate the use of space at authorized service centers for the storage of such spare parts as may be needed to perform the first echelon preventive maintenance and repairs agreed to by CONTRACTOR and the agency. The specific terms, conditions and pricing for such installation and maintenance services shall be agreed to by the parties, and to the greatest extent possible, shall be based upon the pricing set forth in Exhibit 1 and Exhibit 2 of this Agreement.

2.2 VOLUME DISCOUNTS

All State agencies and governmental bodies (including local governmental units and political subdivisions of the State) shall receive the discounts set forth in Exhibit 1. Additionally, they may, individually or as a group, and based upon volume, location, etc., negotiate additional discounts with CONTRACTOR. Such additional discounts shall only apply to the particular agency or group of agencies for which such additional discounts have been negotiated with CONTRACTOR and may be limited to a specific transaction. Prior to providing any agency with additional volume discounts, CONTRACTOR shall provide DSIT'S Contracts Administrator with at least the following information concerning such discounts: the agency or group of agencies receiving the discounts, the type and volume of equipment being purchased, and the amount of the discounts.

DSIT will monitor these discounts to ensure that they are applied in a consistent manner over the term of this Agreement.

2.3 PAYMENT

The CONTRACTOR will submit invoices to the purchaser for products when they are shipped and for services when they are accepted. Payment by State governmental bodies is governed by the South Carolina Consolidated Procurement Code, Section 11-35-45, which requires State governmental bodies to promptly submit all proper invoices to the State's Comptroller General or the appropriate finance officer for payment within thirty (30) work days from acceptance of the goods or services and receipt of proper invoice.

For any purchaser other than State governmental bodies, payment is due within thirty (30) days from the date of proper invoice and acceptance of the products, services, or payment milestone, or as otherwise provided in the purchaser's official payment regulations or rules. The purchaser will make payments when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution or other mutually acceptable means (e.g., credit card).

The Federal Tax Identification Number for the CONTRACTOR is 34-0276860.

2.4 STATE MAY AUDIT CONTRACTOR'S BOOKS

2.4.1 As permitted by South Carolina Consolidated Procurement Code, Section 11-35-2220, the STATE (but not other governmental bodies) may at its expense, at reasonable times, upon reasonable advanced notice, and in a manner that does not interfere with CONTRACTOR'S performance of the Agreement, audit CONTRACTOR'S books and records that are maintained in CONTRACTOR'S ordinary course of its business and that pertain to this Agreement.

CONTRACTOR will maintain such books and records for period of at least three (3) years from the date of final payment under this Agreement. Except as otherwise provided by law, the audit shall be limited to the verification of services, hardware, software and ancillary equipment provided pursuant to this Agreement. Nothing contained herein shall authorize the STATE to audit particular books or records of CONTRACTOR insofar as they contain confidential proprietary information such as product or other costs. CONTRACTOR will cooperate with the STATE in connection with its audit functions. Following any audit or examination, the STATE may conduct, and CONTRACTOR agrees to cooperate with, an exit conference in an effort to obtain factual concurrence with any issues identified in the audit. This section 2.4 is limited to the STATE and not to other governmental bodies.

2.4.2 The STATE (but not other governmental bodies) may conduct, or have conducted, performance audits of the CONTRACTOR and may conduct, or have conducted, audits of specific requirements as determined necessary by the STATE.

2.4.3 CONTRACTOR will maintain its books and records pertaining to the Agreement in accordance with Generally Accepted Accounting Principles ("GAAP").

2.4.4 As permitted by South Carolina Consolidated Procurement Code, Section 11-35-2210, the STATE (acting through DSIT) may at its expense, at reasonable times, and upon reasonable advanced notice, inspect CONTRACTOR'S or its subcontractors' facilities that are related to the performance of this Agreement or an order under this Agreement. Purchasers other than the STATE may request an inspection of CONTRACTOR'S facilities that are related to the performance of an order under this Agreement.

2.5 TAXES

Any tax the contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It

shall be solely the State's obligation, after payment to contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to contractor by the taxing authority. In the event that the contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to contractor, contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the contractor.

The State of South Carolina is exempt from Federal Excise Taxes, and such taxes shall not be added to CONTRACTOR'S prices nor included on CONTRACTOR'S invoices. To the extent that any tax of any kind is charged to CONTRACTOR as a result of providing services under this Agreement, then and in that event such tax shall be billed to the STATE. CONTRACTOR agrees that it will take no action that interferes with the STATE'S tax exempt status. Product sales in the State of South Carolina are subject to the State's sales tax. Pricing is exclusive of State sales taxes.

2.6 FREIGHT, TITLE, AND RISK OF LOSS

CONTRACTOR shall be responsible for payment of all standard delivery and freight charges and none of these charges shall be billed to the purchaser. Title and risk of loss to the products will pass to the purchaser upon delivery. Title to software will not pass at any time but is governed by the applicable software license agreement. CONTRACTOR will pack and ship all products in accordance with good commercial practices.

2.7 BASIS FOR TERMINATION This Agreement may be terminated pursuant to the following:

(a) Non-appropriations - If the legislature fails to appropriate or authorize the expenditure of sufficient funds to provide the continuation of this Agreement or if a lawful order issued in or for any fiscal year during the term of this Agreement reduces the funds appropriated or authorized in such amounts as to preclude making the payments set out therein, this Agreement shall terminate on the date said funds are no longer available without any termination charges or other liability incurring to the STATE except that the STATE shall be liable for services or equipment already performed or provided. The STATE shall provide CONTRACTOR with notice not less than thirty (30) days prior to the date of cancellation. In the event of occurrence of the circumstances described immediately above, CONTRACTOR shall not prohibit or otherwise limit the STATE'S right to pursue and contract for alternate solutions and remedies as deemed necessary by the STATE for the conduct of its affairs. All provisions stated herein shall apply to any amendment or the execution of any option to extend this Agreement;

(b) For Cause - In the event of material breach by CONTRACTOR, the STATE shall be required to give cure notice specifying the material breach in writing. The CONTRACTOR shall have reasonable time, not less than fourteen (14) nor more than sixty (60) business days to correct the breach. The STATE would regard any deviation from the requirements of this Agreement that was neither trivial nor innocent as being material. Such deviations are evaluated on an instance-by-instance basis but, e.g., any material deviation from the requirements of the Agreement which impairs the utilization, performance, or value to the STATE would be regarded by the STATE as a material breach. If such a notice of material breach is given and CONTRACTOR has not begun correction of the material breach within fourteen (14) days or has not corrected the material breach within a reasonable time, i.e. sixty (60) days of receipt of the written notice, the STATE shall have the right to terminate unilaterally and immediately services hereunder by giving a written notice of termination. The STATE reserves the right to purchase any and all services or other items thereafter in the open market, charging CONTRACTOR with any additional costs that were reasonably incurred by the STATE who has the duty to mitigate damages. Should such charge be assessed, no subsequent proposals of the defaulting CONTRACTOR will be

considered until the assessed charge has been satisfied. Additionally, the STATE shall have a similar right of rescission in any instance where CONTRACTOR provides or seeks to provide any services for a price higher than that specified herein, without regard to cause, including governmental intervention. In the event of rescission, revocation or termination, all documents that were specifically prepared for the STATE and are in the possession of the STATE or scheduled for delivery to the STATE necessary to performance hereunder shall become the property of the STATE upon payment of any reasonable charges becoming due therefore. Any amount invoiced to the STATE prior to termination and attributable to the breach shall not be paid. In the event of rescission, revocation or termination, the STATE shall return to CONTRACTOR all of CONTRACTOR'S property, documents and materials which are then in the possession of the STATE. The STATE shall still be liable for any equipment or services it has received which have not been paid for and which is not attributable to the breach. The STATE'S failure to exercise its rights to terminate under this provision shall not be construed as a waiver of its rights to terminate, rescind or revoke the services herein in the event of any subsequent breach;

(c) Convenience - This Agreement may be canceled by the STATE (but not other governmental bodies) any time and for any reason, upon ninety (90) days notice prior to the effective date of said cancellation. There shall be no termination or like charges to the STATE in the event of cancellation pursuant to this provision except the STATE shall pay any services performed or products delivered before the effective date of the termination but shall not be liable for any further charges. In the event that this Agreement is terminated or canceled hereunder without the ninety (90) day advance written notice, then the STATE shall negotiate reasonable termination costs, if applicable.

(d) The language of this termination clause is not intended to be construed to limit the operation of any other enumerated justification for termination present in this Agreement such as, but not limited to an event of Force Majeure.

2.8. ADMINISTRATIVE FEE

Administrative Fee: The Division of State Information Technology (DSIT) issues and maintains State term contracts for the benefit of governmental entities within the State of South Carolina. In order to maintain and enhance the quality and quantity of its State term contract with CONTRACTOR (i.e., this Agreement), the parties have agreed that CONTRACTOR will pay to State an administrative fee of one quarter of one percent (.25%) of CONTRACTOR'S "total actual sales from this Agreement." DSIT has assigned to this Agreement a Master Contract Number DSIT-<XXXXX>, and CONTRACTOR has assigned to this Agreement Bid & Quote Number <XXXXXXXX>. If an eligible purchaser wishes to use this Agreement to make a purchase, it will state on its purchase order both the Master Contract Number and the Bid & Quote Number. In determining the administrative fee, only sales from purchase orders that specifically identify both of these numbers will be included. The term "total actual sales from this Agreement" will be equal to gross sales less returned goods and taxes as stated on the invoice relating to purchase orders that specifically identify these numbers.

The Administrative Fee will be remitted quarterly in the form of a check to:

The Division of State Information Technology
Attn: Nathan Hogue
4430 Broad River Road
Columbia, SC 29210
Telephone number: 803-896-0353

Each remittance will include the period covered and the Master Contract Number. The quarterly administrative fee shall be submitted by the last business day of the month for the previous quarter's actual sales.

3.1 CONFIDENTIALITY AND PROPRIETARY RIGHTS

3.1.1. CONFIDENTIAL INFORMATION.

3.1.1.1. Definition. "Confidential Information" means any information that is disclosed in written, graphic, verbal, or machine-recognizable form, and is marked, designated, or identified at the time of disclosure as being confidential or its equivalent; or if the information is in verbal form, it is identified as confidential at the time of disclosure and is confirmed in writing within thirty (30) days of the disclosure. Confidential Information does not include any information that: is or becomes publicly known through no wrongful or negligent act of the receiving party; is already known to the receiving party without restriction when it is disclosed; is or subsequently becomes, rightfully and without breach of this Agreement, in the receiving party's possession without any obligation restricting disclosure; is independently developed by the receiving party without breach of this Agreement; or is explicitly approved for release by written authorization of the disclosing Party. This definition and the release of information is in all respects subject to applicable South Carolina law, including sections 11-35-410, 30-4-40(a)(2), and 39-5-20 and interpretive authorities, as well as 39-8-20 pertaining to the protection of trade secrets.

3.1.1.2. Disclosure. During the term of this Agreement, the parties may provide each other with Confidential Information. Subject to S.C. public disclosure laws, including but not limited to S.C. 11-35-410 and 30-4-40, each party will: maintain the confidentiality of the other party's Confidential Information and not disclose it to any third party, except as authorized by the disclosing party in writing, as authorized by law, or as required by a court of competent jurisdiction; restrict disclosure of the Confidential Information to its employees who have a "need to know" and not copy or reproduce the Confidential Information; take necessary and appropriate precautions to guard the confidentiality of the Confidential Information, including informing its employees who have access to it that it is confidential and is not to be disclosed to others, but those precautions will be at least the same degree of care that the receiving Party applies to its own confidential information and will not be less than reasonable care.

3.1.1.3. Use. Unless otherwise provided in this Agreement, a party may use the Confidential Information of the other party only in furtherance of the performance of this Agreement or any other agreement between the parties. Confidential Information is and will at all times remain the property of the disclosing party, and no grant of any proprietary rights in the Confidential Information is hereby given or intended, including any express or implied license, other than the limited right of the recipient to use the Confidential Information in the manner and to the extent permitted by this Agreement or any other agreement between the Parties. Confidential information is subject to S.C. Code Ann. §11-35-410 and 30-4-40.

3.2. PRESERVATION OF PROPRIETARY RIGHTS

3.2.1 Definition. "Proprietary Rights" means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the products, including those created or produced by CONTRACTOR under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by CONTRACTOR or another party.

3.2.2 Rights. CONTRACTOR, the third party manufacturer of any products, and the copyright owner of any third party software shall own and retain all of their respective Proprietary Rights in the products, and nothing in this Agreement is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by CONTRACTOR in connection with providing to the purchaser the products or related services remain vested exclusively in CONTRACTOR, and this Agreement does not grant to the purchaser any shared development rights of intellectual property. Except as explicitly provided in the Software License Agreement,

CONTRACTOR does not grant to the STATE or any other purchaser, either directly or by implication, estoppel, or otherwise, any right, title or interest in CONTRACTOR'S Proprietary Rights. The purchaser will not modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, or export the software, or permit or encourage any third party to do so. The preceding sentence does not apply to Open Source Software which is governed by the standard license of the copyright owner.

4.1 GENERAL

4.1.1 ASSIGNABILITY AND SUBCONTRACTING. Neither the STATE nor CONTRACTOR may assign this Agreement without the prior written consent of the other party (which will not be unreasonably withheld or delayed), except that CONTRACTOR may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of the STATE. The CONTRACTOR may subcontract any of the work, but subcontracting will not relieve the CONTRACTOR of its duties under this Agreement. If concerning any Purchase Order CONTRACTOR subcontracts more than 10% of the price of that Purchase Order, CONTRACTOR must obtain the purchaser's approval of the subcontractor, in accordance with Section 1.3.12 herein. Subject to the above in this section, this Agreement shall be for the benefit of, and be binding upon, the respective successors and assigns, if any, of the parties.

4.1.2 WAIVER. Failure or delay by either party to exercise any right or power under this Agreement will not be 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.

4.1.3 SEVERABILITY. If a court of competent jurisdiction renders any part of this Agreement invalid or unenforceable, that part will be severed and the remainder of this Agreement will continue in full force and effect.

4.1.4 NOTICES AND AGENTS

Any and all notices permitted or required to be given hereunder shall be deemed duly given:

Upon actual delivery, if delivery is by hand; or

Upon receipt by the transmitting party of confirmation or answer back if delivery is by telex or telegram; or

Upon deposit into the United States mail if delivery is by postage prepaid registered, certified return receipt requested mail, or overnight carrier with receipt acknowledgment.

Each such notice shall be sent to the respective party at their regular business address or to any other address as the respective party may designate by notice delivered pursuant hereto.

Notices shall be directed to the following:

As to STATE:

South Carolina Budget and Control Board
Division of State Information Technology
Contract Administrator
4430 Broad River Road
Columbia, SC 29210

As to CONTRACTOR:

Harris Corporation, RFCD

221 Jefferson Ridge Parkway
Lynchburg, Virginia 24501

Attention: Cristal Huyghe, Contracts Manager

4.1.5 INDEPENDENT CONTRACTORS. Each party will perform its duties under this Agreement only as an independent contractor. The parties and their personnel will not be considered to be employees or agents of the other party. Nothing in this Agreement will be interpreted as granting either party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership or formal business organization of any kind.

4.1.6 HEADINGS AND SECTION REFERENCES; CONSTRUCTION. The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either party.

4.1.7 APPLICABLE LAW. This Agreement and the rights and duties of the parties will be governed by and interpreted in accordance with the laws of the State of South Carolina. Upon award of this Agreement, CONTRACTOR must comply with the laws of South Carolina which require such person or entity to be authorized and/or licensed to do business in this State. Notwithstanding the fact that applicable statutes may exempt or exclude CONTRACTOR from requirements that it be authorized and/or licensed to do business in the State of South Carolina, the CONTRACTOR agrees to subject itself to the jurisdiction and process of the courts and to the law of the State of South Carolina for all matters and disputes arising or to arise under this Agreement and the performance thereof, including any questions as to the liability for taxes, licenses, or fees levied by the State.

4.1.8 UNIFORM COMMERCIAL CODE. Except to the extent the provisions of this Agreement are clearly inconsistent therewith, this Agreement shall be governed by the applicable provisions of the Uniform Commercial Code. To the extent this Agreement entails both the supply of "goods" and "services," such shall be deemed "goods" within the meaning of the Uniform Commercial Code, except when deeming such services as "goods" would result in a clearly unreasonable interpretation. Any issues relating to software will not be governed by the Uniform Commercial Code.

4.1.9 COMPLIANCE WITH APPLICABLE LAWS. Each party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement. The State will obtain and comply with all Federal Communications Commission ("FCC") licenses and authorizations required for the installation, operation and use of the products. Although CONTRACTOR might assist the STATE in the preparation of its FCC license applications, neither CONTRACTOR nor any of its employees is an agent or representative of the STATE in FCC or other matters. CONTRACTOR shall be responsible for obtaining and maintaining in good standing all licenses (including professional licenses, if any) and permits required by the State, county, city or other government entity or unit to accomplish the work specified in this Agreement. CONTRACTOR will not discriminate in hiring, promotion, treatment, or other terms and conditions of employment based upon race, sex, national origin, age, disability, or in any way that violates Title VII of 1964 Civil Rights Act or the South Carolina Human Affairs Law. CONTRACTOR, pursuant to South Carolina Code Section 44-107-30, certifies that it provides a drug-free work place and will do so throughout the duration of this Agreement.

4.1.10 ENTIRE AGREEMENT. This Agreement, including all exhibits, constitutes the entire agreement of the parties regarding the subject matter of the Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this

subject matter. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both parties. The preprinted terms and conditions found on any purchase order, acknowledgment or other form will not be considered an amendment or modification of this Agreement.

4.1.11 AUTHORITY TO EXECUTE AGREEMENT. Each Party represents that it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; the person executing this Agreement on its behalf has the authority to do so; upon execution and delivery of this Agreement by the Parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.

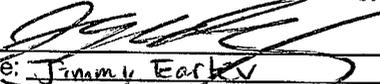
4.1.12 RIGHT TO DEAL. In the event that CONTRACTOR notifies the STATE that it is unable for any reason to provide any material, services, supplies, products or other items of any type or variety to the STATE under this Agreement, including materials, services, or supplies available from any third-party vendor or subcontractor, the State will have the right to deal directly with the third-party without penalty or interference from CONTRACTOR.

4.1.13 LIST OF EXHIBITS. The exhibits to this Agreement are:

Exhibit 1 Price Sheet
Exhibit 2 Software License Agreement

South Carolina Budget and Control Board,
Division of State Information Technology

Harris Corporation,
RF Communications Division

By: 
Name: Jimmy Early
Title: Division Director
Date: 6/28/11

By: 
Name: Cristal Thacker
Title: Contracts Manager
Date: 6/28/11