

**Exhibit C**  
**To**  
**Colorado Participating Addendum – CMS #18670**  
**Software License Agreement**

Motorola, Inc., a Delaware corporation, through its Commercial, Government, and Industrial Solutions Sector (“Motorola” or “Licensor”) and \_\_\_\_\_ (“Licensee”), hereby enter into this Software License Agreement (“Agreement”). This Agreement is entered into pursuant to that certain Public Safety Communication Contract #02702, between Motorola and the State of Washington, on behalf of the Western States Contracting Alliance (“WSCA”), as subsequently amended (together with its exhibits and attachments, the “WSCA Master Agreement”) and that certain Participating Addendum to WSCA Master Agreement between Motorola and the State of Colorado (the “Participating Addendum”). For good and valuable consideration, the parties agree as follows:

**Section 1 SCOPE**

Licensor will provide proprietary software and/or radio communications, computer, or other electronic products (“Products”) containing embedded or pre-loaded proprietary software to Licensee pursuant to the Participating Addendum to Master Price Agreement (the “Addendum”) entered into between Licensor and Licensee on \_\_\_\_\_. “Software” means such proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works thereof; such software may contain one or more items of software owned by a third party supplier (referred to herein as “Third Party Software”). 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 this information is provided) are collectively referred to as “Documentation.” This Agreement contains the terms and conditions pursuant to which Licensor will license to Licensee, and Licensee may use, the Software and Documentation. Unless otherwise specifically stated herein, Motorola makes no representations or warranties of any kind regarding Third Party Software.

**Section 2 GRANT OF LICENSE**

Subject to Section 1, Licensor hereby grants to Licensee a personal, non-transferable (except as permitted in Section 8 below), limited, and non-exclusive license under Licensor’s applicable proprietary rights to use the Software and related Documentation for the purposes for which they were designed and in accordance with the terms and conditions of this Agreement. The license does not grant any rights to source code.

If the Software is or includes Integration Framework, Customer Service Request (“CSR”), or Cityworks software, such Software is licensed pursuant to this Agreement plus a separate document entitled Software License Agreement Rider for Integration Framework, Customer Service Request, or Cityworks Software (“Rider”). Such Rider shall not be applicable to any Licensee that is a State agency or institution of higher education as defined in the Participating Addendum until such time as the form of the Rider has been added as an Exhibit to this Addendum pursuant to a formal written amendment signed by the Parties and submitted to, approved, and signed by the Colorado State Controller or authorized designee.

**Section 3 LIMITATIONS ON USE**

3.1. 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. Licensee may not for any reason modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code, create derivative works from, adapt, translate, merge with other software, copy, reproduce, distribute, or export any Software or permit or encourage any third party to do so, except that Licensee may make one copy of Software provided by Licensor to be used solely for archival, back-up, or disaster recovery purposes. Licensee must reproduce all copyright and trademark notices on all copies of the Software and Documentation.

3.2. Licensee may not copy onto or transfer Software installed in one Product device onto another device. Notwithstanding the preceding sentence, Licensee may temporarily transfer Software installed on one device onto another if the original device is inoperable or malfunctioning, provided that Licensee provides written notice to Licensor of such temporary transfer and such temporary transfer is discontinued when the original device is returned to operation. Upon Licensor's written request, Licensee must provide to Licensor a written list of all Product devices in which the Software is installed and being used by Licensee.

3.3. Concerning Motorola's Radio Service Software ("RSS"), if applicable, Licensee must purchase a copy for each location at which Licensee uses RSS. Licensee's use of RSS at an authorized location does not entitle Licensee to use or access the RSS remotely. Licensee may make one additional copy for each computer owned or controlled by Licensee at each such location. Upon Licensor's written request, Licensee must provide to Licensor a written list of all locations where Licensee uses or intends to use RSS.

#### **Section 4 OWNERSHIP AND TITLE**

Title to all copies of Software will not pass to Licensee at any time and remains vested exclusively in the copyright owner. The copyright owner owns and retains all of its proprietary rights in any form concerning the Software and Documentation, including all rights in patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, and other intellectual properties (including any corrections, bug fixes, enhancements, updates, or modifications to or derivative works from the Software whether made by Licensor or another party, or any improvements that result from Licensor's processes or, if applicable, providing information services). Nothing in this Agreement is intended to restrict the proprietary rights of Licensor or to grant by implication or estoppel any proprietary rights. All intellectual property developed, originated, or prepared by Licensor in connection with providing to Licensee Software, Products, Documentation, or related services remain vested exclusively in Licensor, and this Agreement does not grant to Licensee any shared development rights of intellectual property.

#### **Section 5 CONFIDENTIALITY**

Licensee acknowledges that the Software and Documentation contain Licensor's valuable proprietary and confidential information and are Licensor'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 Licensor. Licensee will take necessary and appropriate precautions to maintain the confidentiality and guard against the unauthorized disclosure of the Software and Documentation, using at least the same degree of care that Licensee applies to its own confidential information but not less than reasonable care. Precautions will include informing Licensee's employees and agents who are authorized to use the Software and Documentation that such information is confidential and may not to be disclosed to others. Licensee will limit access to the Software and Documentation only to Licensee's employees and agents who "need to know," are authorized to use the Software and Documentation as permitted by this Agreement, and are bound by confidentiality terms substantially similar to those contained in this Agreement.

#### **Section 6 LIMITED WARRANTY**

6.1. If this Agreement is an exhibit to a mutually executed system agreement or products agreement, then the commencement date and the term of the Software warranty shall be as stated in such agreement, except that (i) the warranty term for Printrak's LiveScan software shall be 90 days; and (ii) for application Software that is provided on a per unit basis, the warranty period for subsequent units licensed is the remainder (if any) of the initial warranty period or, if the initial warranty period has expired, the remainder (if any) of the term of any applicable software maintenance or support agreement. If this Agreement is not an exhibit to a mutually executed system agreement or products agreement, then the Software warranty period will be 120 days from shipment.

6.2. During the applicable warranty period, Licensor 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 such defect occurs will be determined solely with reference to the Documentation. Licensor does not warrant that Licensee's use of the Software or Products will be uninterrupted or error-free or that the Software or the Products will meet Licensee's particular requirements.

6.3. Before the expiration of the applicable warranty period, Licensee must notify Licensor in writing if the Software does not conform to this warranty. Upon receipt of such notice, Licensor will investigate the warranty claim. If this investigation confirms a valid warranty claim, Licensor will (at its option and at no additional charge to Licensee) repair the defect, replace the defective Software with the same or equivalent software, or refund the price of the defective Software or individual Product in which the Software is embedded or for which it was provided. Such action will be the full extent of Licensor's liability and Licensee's sole and exclusive remedy for a breach of this warranty. If the investigation indicates the warranty claim is not valid, then Licensor shall not be responsible for the repair of the defect and the Licensee, in its sole option may request that Licensor repair such defect at Licensee's sole expense on a time and materials basis using Licensor's then current published labor rates.

6.4. LICENSOR DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO THE SOFTWARE, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE TRANSACTION COVERED BY THIS AGREEMENT IS A LICENSE AND NOT A SALE OF GOODS.

## **Section 7      LIMITATION OF LIABILITY**

Except for personal injury or death, damage to tangible personal property and indemnification for Infringement Claims, Licensor'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 for the software paid by all State licensees, the products provided by Licensor in which the software is embedded or installed, or the services specifically related to the software with respect to which losses or damages are claimed. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, LICENSOR WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES INCLUDING COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT This limitation of liability provision applies notwithstanding any contrary provision..

## **Section 8      TRANSFERS**

Licensee shall not transfer Software or the related Documentation to any third party without Licensor's prior written consent, which consent may be withheld in Licensor's reasonable discretion and which may be conditioned upon the transferee paying all applicable license fees and agreeing to be bound by this Agreement. Notwithstanding the preceding sentence, if Licensee transfers ownership of radio Products to a third party, Licensee may assign its rights to use the Software (other than Radio Service Software and Motorola's FLASHport® Software) embedded in or furnished for use with those radio Products; provided that Licensee transfers all copies of such Software and the related Documentation to the transferee, and the transferee executes a transfer form to be provided by Licensor upon request (which form obligates the transferee to be bound by this Agreement).

## **Section 9      TERM AND TERMINATION**

Licensee's right to use the Software and Documentation will begin when this Agreement is mutually executed by both parties and will continue during the life of the Products in which the Software is used, unless Licensee breaches this Agreement in which case it shall be terminated immediately upon notice by Licensor. Licensee acknowledges that Licensor has made a considerable investment of resources in the development, marketing,

and distribution of its proprietary Software and Documentation and that reasonable and appropriate limitations on Licensee's use of the Software and Documentation are necessary for Licensor to protect its investment, trade secrets, and valuable intellectual property rights concerning the Software and Documentation. Licensee also acknowledges that its breach of this Agreement will result in irreparable harm to Licensor for which monetary damages would be inadequate. In the event of a breach of this Agreement and in addition to termination of this Agreement, Licensor shall 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 State agency with responsibilities for law enforcement or public safety). Within thirty (30) days after termination of this Agreement, Licensee must certify in writing to Licensor that all copies of the Software and Documentation have been returned to Licensor or destroyed and are no longer in use by Licensee.

**Section 10 NOTICES**

All notices required under this Agreement to be given by one party to the other must be in writing and either delivered in person or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service with an asset tracking system, such as Federal Express, UPS, or DHL), and shall be effective upon receipt. Change of address must be in writing to the other party.

Licensee  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Licensor  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Section 11 UNITED STATES GOVERNMENT LICENSING PROVISIONS**

In the event that the Licensee is the United States Government or a United States Government agency, then the provisions of this section also apply. Use, duplication or disclosure of the Software and associated Documentation under Licensor's copyrights and/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 being provided to the Department of Defense. If being provided to the Department of Defense, use, duplication, or disclosure of Software and associated 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. Software and associated Documentation may or may not include a Restricted Rights notice, or other notice referring specifically to the terms and conditions of this Agreement. The terms and conditions of this Agreement shall each continue to apply, but only to the extent that such terms and conditions are not inconsistent with the rights provided to the Licensee under the aforementioned provisions of the FAR or DFARS, as applicable to the particular procuring agency and procurement transaction.

**Section 12 GENERAL**

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

12.2. COMPLIANCE WITH LAWS. 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 Licensor 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 agency thereof, at the time of such action, requires an export license or other governmental approval. Violation of this provision shall be a material breach of this Agreement, permitting immediate termination by Licensor.

12.3. **WAIVERS.** Failure or delay by either party to exercise any right or power under this Agreement will not operate as a waiver of such right or power. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall 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.

12.4. **ASSIGNMENTS.** Licensor may assign any of its rights or subcontract any of its obligations under this Agreement, or encumber or sell any of its rights in any Software, subject to this Software License Agreement, without prior notice to or consent of Licensee.

12.5. **ENTIRE AGREEMENT AND AMENDMENT.** This Agreement is issued under and subject to the provisions of the Addendum and the Master Price Agreement. These documents constitute the entire agreement of the parties regarding Licensee's use of the Software and Documentation and may be altered, amended, or modified only by a written instrument signed by an authorized representative of each party, except that Licensor may modify this Agreement as necessary to comply with applicable laws and regulations. In the event of a conflict between this Agreement and the terms and conditions of the Master Agreement, the Addendum or any separately executed license agreement between Licensor and a purchasing entity, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. Addendum
- ii. License Agreement
- iii. Master Agreement

12.6. **GOVERNING LAW.** This Agreement will be governed by the laws of the United States to the extent that they apply and otherwise by the laws of the State to which the Software or Products are shipped if Licensee is a sovereign government entity or the laws of the State of Illinois if Licensee is not a sovereign government entity.

12.7. **SEVERABILITY.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, that provision will be severed and the remainder of this Agreement will remain in full force and effect.