WAVE PTX™ Subscription Services Agreement - EMEA

This WAVE PTX™ Subscription Services Agreement ("Agreement") sets forth the terms under which Motorola Solutions Germany, GmbH. ("Motorola") will provide the legal entity that electronically accepts the terms in this Agreement ("Customer") access to the applicable services on this site. These services are available to enterprise customers only and is not available for use by individual consumers.

IMPORTANT: PLEASE READ THIS AGREEMENT CAREFULLY AND IF CUSTOMER DOES AGREE TO THE TERMS SET FORTH IN THE AGREEMENT, PLEASE SIGN BELOW TO ACCEPT THESE TERMS. UPON SIGNATURE OR WHEN CUSTOMER DOWNLOADS OR USES ANY PART OF THE SOFTWARE OR SERVICES, (i) CUSTOMER REPRESENTS AND WARRANTS THAT IT HAS THE AUTHORITY TO ENTER INTO THIS AGREEMENT; AND (ii) CUSTOMER IS CONSENTING TO BE BOUND BY, AND IS BECOMING A PARTY TO, THIS AGREEMENT. IF CUSTOMER DOES NOT AGREE TO THE TERMS, NO USE IS PERMITTED AND NO LICENSE IS GRANTED TO ANY PART OF THE SERVICES OR RELATED SOFTWARE. Motorola and Customer may be referred to individually as a "Party" and collectively as the "Parties." For good and valuable consideration, the parties agree as follows:

1. DEFINITIONS

Capitalized terms used in this Agreement have the meanings set forth below. Any reference to the purchase or sale of software or other Intellectual Property shall mean the sale or purchase of a license or sublicense to use such software or Intellectual Property in accordance with this Agreement.

1.1 **Administrator** means Customer's designated system administrator who receives administrative logins for the Services and issues access rights to Customer's Users.

1.2 **Confidential Information** means any information that is disclosed in written, graphic, verbal, or machine-recognizable form, and is marked, designated, or identified at the time of disclosure as being confidential or its equivalent; or if the information is in verbal form, it is identified as confidential at the time of disclosure and is confirmed in writing within thirty (30) days of the disclosure. Confidential Information does not include any information that: is or becomes publicly known through no wrongful act of the receiving Party; is already known to the receiving Party without restriction when it is disclosed; is or becomes, rightfully and without breach of this Agreement, in the receiving Party's possession without any obligation restricting disclosure; is independently developed by the receiving Party without breach of this Agreement; or is explicitly approved for release by written authorization of the disclosing Party.

1.3 **Customer Data** means data provided by Customer to Motorola hereunder to be processed and used in connection with the Services. Customer Data does not include data provided by third parties and passed on to Motorola.

1.4 **Deliverables** means all written information (such as reports, analytics, Solution Data, specifications, designs, plans, drawings, or other technical or business information) that Motorola prepares for Customer in the performance of the Services and is obligated to provide to Customer pursuant to the Documentation.

1.5 **Documentation** means the technical materials provided by Motorola to Customer in hard copy or electronic form, including those posted on this site, describing the use and operation of the Solution and Software, including any technical manuals, but excluding any sales, advertising or marketing materials or proposals.

1.6 **Effective Date** means the date of Customer or Customer's representative signature of this Agreement.

1.7 **Force Majeure** which means an event, circumstance, or act that is beyond a Party's reasonable control, such as an act of God, an act of the public enemy, an act of a government entity, strikes, other labor disturbances, supplier performance, hurricanes, earthquakes, fires, floods, epidemics,

embargoes, war, riots, or any other similar cause.

1.8 **Licensed Product** means 1) Software, whether hosted, downloaded, or installed at Customer's site, 2) Documentation; 3) associated user interfaces; 4) help resources; and 5) any related technology or other services made available by the Services.

1.9 **Proprietary Rights"** means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, ideas and concepts, moral rights, processes, methodologies, tools, techniques, and other intellectual property rights.

1.10 **Services** means those services to be provided by Motorola to Customer under this Agreement, the nature and scope of which are more fully described on this site and in Documentation associated with the Services.

1.11 **Software** means the Motorola owned or licensed off the shelf software programs delivered as part of the Licensed Products used to provide the Services, including all bug fixes, updates and upgrades.

1.12 **Solution** means collectively, the Software, servers and/or any other hardware or equipment operated by Motorola and used in conjunction with the Services. In some instances, as determined by Motorola, Solution may include components purchased from and/or operated by an authorized Motorola sales agent.

1.13 **Solution Data** means raw data that is transformed, altered, processed, aggregated, correlated or operated on by Motorola, its vendors or other data sources and data that has been manipulated or retrieved using Motorola know-how to produce value-added content to data consumers, including customers or citizens which is made available to Customer with the Solution and Services.

1.14 **Users** means Customer's authorized employees or other individuals authorized to utilize the Services on behalf of Customer and who will be provided access to the Services by virtue of a password or equivalent security mechanism.

2. SCOPE OF AGREEMENT; TERM

2.1 Motorola will provide to Customer the Services and Deliverables (if any). As part of the Services, Motorola will allow Customer only to use the Solution described on this site or in the Documentation. Motorola and Customer will perform their respective responsibilities as described in this Agreement. Customer will use the Services only for its internal business purposes and will not use the Services for the benefit of any outside person or entity without the express written permission of Motorola.

2.2 To enable Motorola to perform the Services, Customer will provide to Motorola reasonable access to relevant Customer information, personnel, systems, and other general assistance as required by Motorola. Further, if any portion of the Solution is provided or operated by an authorized Motorola sales agent, Customer will ensure a non-hazardous environment with adequate shelter, heat, light, power, security, and full and free access to any portion of the Solution installed or stored at Customer's location.

2.3 Any information that Customer provides to Motorola concerning the Services, Solution or Deliverables will be accurate and complete in all material respects. Customer will make timely decisions and obtain any required management and third party approvals or consents that are reasonably necessary for Motorola to perform the Services and its other duties under this Agreement. Motorola may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions and Customer-provided information, decisions and approvals described in this paragraph. Compliance with the foregoing will impact Motorola's ability to provide the Services and non-compliance may result in termination of the Agreement.

2.4 Customer shall at all times exercise reasonable care in using and maintaining the Services, Licensed Products and Solution in accordance with Motorola's instructions for proper use and care and applicable laws, rules, regulations, licences and authorisations. The Customer shall ensure that the Services, Licenced Products and Solution are not used to transmit illegal materials; in a way that results in the Services, Licenced Products and Solution being impaired or

damaged; or for any unlawful purpose. Customer shall fully cooperate with Motorola in compliance with this clause and to enable Motorola to comply with the same. Breach of this clause shall be considered a material breach and shall entitle Motorola to terminate this agreement on immediate notice.

2.5   Customer will properly enable its Users to use the Services and Solution, including providing term and instructions for use, labelling, required notices, and accommodation pursuant to applicable laws, rules, and regulations. Customer will train its Users on proper operation of the Services, Solution and Licensed Products. By using the Service, Customer agrees to and accepts on behalf of all its Users the limitations and conditions of use of the Licensed Products in this Agreement, prior to allowing Users to access or use the Services. Customer will inform Users of this required Compliance.

2.6   If, as a result of the Services performed under this Agreement, Motorola recommends that Customer purchase products or other services, nothing in this Agreement precludes Motorola from participating in a competitive opportunity or otherwise offering or selling the recommended products or other services to Customer. Customer represents that this paragraph does not violate its procurement or other laws, regulations, or policies.

2.7   Customer may request changes to the Services. If Motorola agrees to a requested change, the change must be confirmed in writing and signed by authorized representatives of both parties. A reasonable price adjustment will be made if any change affects the time of performance or the cost to perform the Services and may result in additional payment or fees to Motorola or a third Party.

2.8   TERM. The Term of this Agreement begins on the date of acceptance of this Agreement and continues each month until termination by either Party in accordance with the terms of this Agreement.

3. PAYMENT

3.1.   Motorola may terminate Service for any non-payment of fees, whether such fees are due to Motorola or to a third party.

3.2   Any services performed by Motorola outside the scope of this Agreement at the direction of Customer will be considered to be additional Services which are subject to additional charges. Any agreement to perform additional Services will be reflected in a separate written Agreement or an amendment to this Agreement.

4. ACCEPTANCE; FORCE MAJEURE

4.1   The Licensed Products will be deemed accepted upon the delivery of usernames and passwords to Customer. If usernames and passwords have been issued to Customer prior to the Effective Date, the Licensed Products will be deemed accepted on the Effective Date.

4.2   Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure. Each Party will notify the other in writing if it becomes aware of any Force Majeure that will significantly delay performance. The notifying Party will give the notice promptly (but in no event later than fifteen (15) days) after it discovers the Force Majeure.

5. CONFIDENTIAL INFORMATION AND PROPRIETARY RIGHTS

5.1 CONFIDENTIAL INFORMATION

5.1.1. During the term of this Agreement, the parties may provide each other with Confidential Information. Licensed Products, and all Deliverables will be deemed to be Motorola's Confidential Information. 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 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 handle the Confidential Information 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; and use the Confidential Information only in furtherance of the performance of this Agreement or pursuant to the license granted immediately below.

5.1.2. The disclosing Party owns and retains all of its Proprietary Rights in and to its Confidential Information, except the disclosing Party hereby grants to the receiving Party the limited right and license, on a non-exclusive, irrevocable, and royalty-free basis, to use the Confidential Information for any lawful, internal business purpose in the manner and to the extent permitted by this Agreement.

5.2 PRESERVATION OF PROPRIETARY RIGHTS

5.2.1   Customer acknowledges that the Licensed Products and any associated Documentation, data, and methodologies used in providing Services are proprietary to Motorola or its third party licensors and contain valuable trade secrets. In accordance with this Agreement, Customer and its employees shall treat the Services, Deliverables, Solution and all Proprietary Rights as Confidential Information and will maintain the strictest confidence.

5.2.2   Each Party owns and retains all of its Proprietary Rights that exist on the Effective Date. Motorola owns and retains all Proprietary Rights that are developed, originated, or prepared in connection with providing the Deliverables or Services to Customer, and this Agreement does not grant to Customer any shared development rights. At Motorola's request and expense, Customer will execute all papers and provide reasonable assistance to Motorola to enable Motorola to establish the Proprietary Rights. Unless otherwise explicitly stated herein, this Agreement does not restrict a Party concerning its own Proprietary Rights and is not a grant (either directly or by implication, estoppel, or otherwise) of a Party's Proprietary Rights to the other Party.

5.3   Remedies. Because Licensed Products contain valuable trade secrets and proprietary information of Motorola, its vendors and licensors, Customer acknowledges and agrees that any actual or threatened breach of this Section will constitute immediate, irreparable harm to Motorola for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. Notwithstanding anything in this Agreement to the contrary, Motorola reserves the right to obtain injunctive relief and any other appropriate remedies from any court of competent jurisdiction in connection with any actual, alleged, or suspected breach of Section 3, infringement, misappropriation or violation of Motorola's Property Rights, or the unauthorized use of Motorola's Confidential Information. Any such action or proceeding may be brought in any court of competent jurisdiction. Except as otherwise expressly provided in this Agreement, the parties' rights and remedies under this Agreement are cumulative.

6. LIMITED LICENSE

6.1   LICENSED PRODUCTS. Use of the Licensed Products by Customer and its Users is strictly limited to use in connection with the Solution or Services during the term of this Agreement. Customer and Users will refrain from, and will require others to refrain from, doing any of the following with regard to the Software in the Solution: (i) directly or indirectly, by electronic or other means, copy, modify, or translate the Software; (ii) directly or indirectly, by electronic or other means, reproduce, reverse engineer, distribute, sell, publish, commercially exploit, rent, lease, sublicense, assign or otherwise transfer or make available the Licensed Products or any part

thereof to any third party, or otherwise disseminate the Licensed Product in any manner; (iii) directly or indirectly, by electronic or other means, modify, decompile, or disassemble the Software or part thereof, or attempt to derive source code from the Software; or (iv) remove any proprietary notices, labels, or marks on the Software or any part of the Licensed Products. Motorola reserves all rights to the Software and other Licensed Products not expressly granted herein. Customer agrees to abide by the copyright laws of the United States and all other relevant jurisdictions, including without limitation, the copyright laws where Customer uses the Services or Solution. Customer agrees to immediately cease using the Services Solution if it fails to comply with this paragraph or any other part of this Agreement. Customer and its Users must comply with the WAVE PTX End User License Agreement in Exhibit A which is incorporated into this Agreement.

6.2 **DATA**

6.2.1   Solution Data. Motorola, its vendors and licensors are the exclusive owners of all right, title, and interest, in and to the Solution Data, including all intellectual property rights therein. Motorola grants Customer a personal, royalty-free, non-exclusive license to: (i) access, view, use, copy, and store the Solution Data for its internal business purposes and, (ii) when specifically permitted in writing by Motorola, publish Solution Data on its websites for viewing by the public.

6.2.2   Customer Data. Customer retains ownership of Customer Data. Customer grants Motorola and its subcontractors a personal, royalty-free, perpetual, non-exclusive license to access, use, copy, modify, Customer data for the purpose of providing the Services to Customer, other Motorola Customers and end users. In addition to the rights listed above, Customer grants Motorola a license to sell the anonymous version of Customer Data for any purpose

7. WARRANTY AND DISCLAIMERS

7.1   SERVICE WARRANTY. Services and the Software used to provide the Services will operate in accordance with the Documentation provided by Motorola. Customer's sole and exclusive remedy for breach of this warranty is re-performance of the Services. OTHER THAN THE FOREGOING, MOTOROLA DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. Customer acknowledges that Deliverables, if any, may contain recommendations, suggestions or advice from Motorola to Customer (collectively, "Recommendations"). Motorola makes no warranties concerning those Recommendations, and Customer alone accepts responsibility for choosing whether and how to implement the Recommendations and the results to be realized from implementing them.

7.2   NO GUARANTEE. Customer acknowledges that functionality of the Solution and Services, as well as availability and accuracy of Solution Data, is dependent on many elements beyond Motorola's control, including databases managed by Customer or third parties and Customer's existing equipment, software, and Customer Data. Therefore, Motorola does not guarantee availability or accuracy of data, or any minimum level of coverage or connectivity. Interruption or interference with the Services or Solution may periodically occur. Customer agrees not to represent to any third party that Motorola has provided such guarantee.

7.3   EXISTING EQUIPMENT AND SOFTWARE. If Customer's equipment and software is critical to the operation and use of the Services, Customer is solely responsible for supporting and maintaining Customer's own equipment and software. For the avoidance of doubt, this responsibility shall extend to any Motorola equipment and software purchased by the Customer for use with the Services. Connection to or interface with Customer's existing equipment and software may be required to receive Services. Any failures or deficiencies of Customer's existing equipment and software may impact the functionality of the Solution and the Services to be

delivered. Any vulnerabilities or inefficiencies in Customer's system may also impact the Solution and the Services.

7.4 **PRIVACY**

7.4.1   Customer. Customer bears sole responsibility for compliance with any laws and regulations regarding tracking; location based services; gathering, storing, processing, transmitting, using or misusing; or otherwise handling personally identifiable information (PII), including information about Users of the Solution or citizens in the general public. Further, it is Customer's sole responsibility to comply with any laws or regulations prescribing the measures to be taken in the event of breach of privacy or accidental disclosure of any PII. Enacting and enforcing any internal privacy policies for the protection of PII, including individual disclosure and consent mechanisms, limitations on use of the information, and commitments with respect to the storage, use, deletion and processing of PII in a manner that complies with applicable laws and regulations will be Customer's sole responsibility. Motorola will not evaluate the sufficiency of such policies and disclaims any responsibility or liability for privacy practices implemented by Customer, or lack Thereof.

7.4.2   Data Processing Agreement. The Parties shall comply with the Data Processing Agreement ("DPA) attached hereto as Exhibit B, which is herein incorporated by reference into this Agreement.

7.5   SOCIAL MEDIA. If Customer purchases Services that utilize social media, Customer acknowledges and agrees that such Services are not designed to ensure individual privacy. In such case, Customer will inform Users that the Solution and Services may enable visibility to PII, as well as physical location of individuals. Further, if the Solution or Services are available to the general public pursuant to this Agreement, Customer will provide the appropriate privacy notification. Neither Motorola nor Customer can provide any assurance of individual privacy in connection with the Solution or Services utilizing social media. Further, Customer is solely responsible for determining whether and how to use data gathered from social media sources for the purpose of criminal investigations or prosecution. Customer will hold Motorola harmless from any and all liability, expense, judgment, suit, or cause of action, which may accrue against Motorola for causes of action for damages related to tracking, location based services, breach of privacy, and the use or misuse of PII provided that Motorola gives Customer prompt, written notice of any such claim or suit. Motorola shall cooperate with Customer in its defense or settlement of such claim or suit.

7.6   Motorola reserves the right to discontinue service at any time without notice to Users that misuse the Service, jeopardize the Licensed Product or public safety in any way.

8. **LIMITATION OF LIABILITY**

8.1   Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Service provided under this Agreement. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOODWILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF THE SERVICES BY MOTOROLA. This limitation of liability provision survives the expiration or termination of this Agreement and applies notwithstanding any contrary provision. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account.

8.2   MOTOROLA DISCLAIMS ANY AND ALL LIABILITY FOR ANY AND ALL LOSS OR COSTS OF ANY KIND ASSOCIATED WITH 1) THE INTERRUPTION, INTERFERENCE OR FAILURE OF CONNECTIVITY, VULNERABILITIES OR SECURITY EVENTS, WHETHER OR NOT THEY ARE DISCOVERED BY MOTOROLA; 2) PERFORMANCE OF CUSTOMER'S EXISTING EQUIPMENT AND SOFTWARE OR ACCURACY OF CUSTOMER DATA; 3) IF ANY PORTION OF THE SOLUTION OR LICENSED PRODUCT RESIDES ON CUSTOMER'S PREMISES, DISRUPTIONS OF AND/OR DAMAGE TO CUSTOMER'S OR A THIRD PARTY'S INFORMATION SYSTEMS, EQUIPMENT, AND THE INFORMATION AND DATA, INCLUDING BUT NOT LIMITED TO, DENIAL OF ACCESS TO A LEGITIMATE SYSTEM USER, AUTOMATIC SHUTDOWN OF INFORMATION SYSTEMS CAUSED BY INTRUSION DETECTION SOFTWARE OR HARDWARE, OR FAILURE OF THE INFORMATION SYSTEM RESULTING FROM THE PROVISION OR DELIVERY OF THE SERVICE; 4) AVAILABILITY OR ACCURACY OF SOLUTION DATA; 5) INTERPRETATION, USE OR MISUSE IN ANY WAY OF SOLUTION DATA; 6) IMPLEMENTATION OF RECOMMENDATIONS PROVIDED IN CONNECTION WITH THE SERVICES; 7) TRACKING AND LOCATION BASED SERVICES, BREACH OF PRIVACY, AND THE USE OR MISUSE OF PERSONALLY IDENTIFIABLE INFORMATION.

8.3   The parties acknowledge that the Agreement has been entered into in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the parties.

9. TERMINATION

9.1   Motorola may terminate this Agreement at its convenience with thirty (30) days prior written notice. Motorola may terminate this agreement on immediate notice if the Customer is in breach of its terms.

9.2   If the Services are provided to Customer through a third party Motorola may terminate this Agreement on immediate notice of termination of the agreement between Customer and such third party for the supply of the Services as well as on immediate notice of termination of the agreement between Motorola and such third party.

10. DISPUTES

10.1.   **SETTLEMENT PREFERRED.** 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 the appropriate higher-level managers of the parties, if necessary. If cooperative efforts fail, the dispute will be mediated by a mediator chosen jointly by the parties within thirty (30) days after notice by one of the parties demanding non-binding mediation. The parties will not unreasonably withhold consent to the selection of a mediator, will share the cost of the mediation equally, may agree to postpone mediation until they have completed some specified but limited discovery about the dispute, and may replace mediation with some other form of non-binding alternative dispute resolution ("ADR").

10.2.   **LITIGATION**. A Party may submit to a court of competent jurisdiction any claim relating to intellectual property, breach of confidentiality, or any dispute that cannot be resolved between the parties through negotiation or mediation within two (2) months after the date of the initial demand for non-binding mediation. Each Party consents to jurisdiction over it by that court. The use of ADR procedures will not be considered under the doctrine of laches, waiver, or estoppel to affect adversely the rights of either Party. Either Party may resort to the judicial proceedings described in this section before the expiration of the two-month ADR period if good faith efforts to resolve

the dispute under these procedures have been unsuccessful; or interim relief from the court is necessary to prevent serious and irreparable injury to the Party.

11. GENERAL

11.1 **TAXES.** Any fees payable from Customer to Motorola do not include any excise, sales, lease, use, property, or other taxes, assessments or duties, all of which will be paid by Customer except as exempt by law. If Motorola is required to pay any of those taxes, such taxes will be added to the fees and due in accordance with the payment terms. Motorola will be solely responsible for reporting taxes on its income or net worth.

11.2 **ASSIGNABILITY**. Neither Party may assign this Agreement without the prior written consent of the other Party (which will not be unreasonably withheld or delayed), except that Motorola may assign this Agreement to any of its affiliates.

11.3 **SUBCONTRACTING.** Motorola may subcontract any portion of the Services without the prior written consent of Customer.

11.4 **WAIVER**. Failure or delay by either Party to exercise a right or power 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 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.

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

11.6 **INDEPENDENT CONTRACTORS.** Each Party will perform its duties under this Agreement 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.

11.7 **HEADINGS AND SECTION REFERENCES.** 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.

11.8 **GOVERNING LAW**. To the extent permitted by 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 Illinois, USA.

11.9 **FUTURE REGULATORY REQUIREMENTS.** The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or Solution required to achieve regulatory compliance may be available for an additional fee.

11.10 **NOTICES**. Notices required under this Agreement to be given by one Party to the other must be in writing and either delivered personally, electronically, or with confirmed delivered to the address provided by the applicable Party.

11.11. **COMPLIANCE WITH APPLICABLE LAWS.** Each Party will comply with all applicable federal, state, provincial, and local laws, regulations and rules concerning the performance of this Agreement. Further, Customer will comply with all applicable export and import control laws and regulations in its use of the Licensed Products and Services. In particular, Customer will not export or re-export the Licensed Products without Motorolaís' prior written consent, and, if such consent is granted, without Customer first obtaining all required United States or Canadian, as applicable, and foreign government licenses. Customer further agrees to comply with all

applicable laws and regulations in providing the Customer Data to Motorola, and Customer warrants and represents to Motorola that Customer has all rights necessary to provide such Customer Data to Motorola for the uses as contemplated hereunder. Customer shall obtain at its expense all necessary licenses, permits and regulatory approvals required by any and all governmental authorities as may from time to time be required in connection with its activities related to this Agreement. To the extent permitted by applicable law, Customer will defend, indemnify, and hold harmless Motorola from and against any violation of such laws or regulations by Customer or any of its agents, officers, directors, or employees.

11.12. **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.

11.13. **RETURN OF EQUIPMENT.** In the event Motorola owned equipment is provided as part of, or in addition to, the Services, Customer shall on termination for any reason return all Motorola owned equipment delivered to Customer.

11.14. **AUDIT.** Motorola reserves the right to monitor and audit use of the Services. Customer will cooperate and will require Users to cooperate with such monitoring or audit.

11.15. **SURVIVAL OF TERMS.** The following provisions survives the expiration or termination of this Agreement for any reason: if any payment obligations exist, Section 3 (Payment); Section 5 (Confidential Information and Proprietary Rights); Section 8 (Limitation of Liability); Section 9 (Termination); Section 10 (Disputes); and all General provisions in Section 11.

11.16 **ENTIRE AGREEMENT**. This Agreement, including Exhibits, constitutes the entire agreement of the parties regarding the subject matter of this Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to the 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 Customer purchase order, acknowledgment or other form will not amend or modify this Agreement.

IF THE FOREGOING TERMS AND CONDITIONS ARE ACCEPTABLE TO CUSTOMER, PLEASE INDICATE AGREEMENT AND ACCEPTANCE BY SIGNING BELOW.

I hereby agree to the WAVE PTX™ Subscription Services Agreement as set out in this document:

Name: Title:
_____

Signature: Date:
_____

EXHIBIT A

WAVE PTX™

END USER LICENSE AGREEMENT

THE ACCOMPANYING SOFTWARE AND DOCUMENTATION (EACH AS DEFINED BELOW) BELONG IN PART TO TWISTED PAIR SOLUTIONS, A MOTOROLA SOLUTIONS COMPANY, AND IN PART TO KODIAK NETWORKS, INC., A MOTOROLA SOLUTIONS COMPANY (COLLECTIVELY KNOWN AS "LICENSOR") OR THEIR LICENSORS AND ARE SUBJECT TO THIS END USER LICENSE AGREEMENT ("AGREEMENT"). WHEN YOUPROVIDE SIGNATURE ACCEPTANCE OR WHEN YOU OTHERWISE INSTALL OR USE ANY PART OF THE SOFTWARE OR DOCUMENTATION, (i) YOU ARE REPRESENTING AND WARRANTING THAT YOU HAVE THE AUTHORITY TO BIND LICENSEE AND (ii) YOU ARE CONSENTING TO BE BOUND BY, AND BECOMING A PARTY TO, THIS AGREEMENT. IF YOU DO NOT AGREE TO (OR CANNOT COMPLY WITH) ALL OF THE TERMS OF THIS AGREEMENT, DO NOT PROVIDE SIGNATURE ACCEPTANCE AND YOU WILL NOT BE AUTHORIZED TO USE OR HAVE ANY LICENSE TO ANY PART OF THE SOFTWARE OR DOCUMENTATION.

IF YOU ARE DEEMED TO HAVE ORDERED THE SOFTWARE AND/OR DOCUMENTATION, LICENSOR'S ACCEPTANCE IS EXPRESSLY CONDITIONAL ON ASSENT TO THESE TERMS TO THE EXCLUSION OF ALL OTHER TERMS; IF THESE TERMS ARE CONSIDERED AN OFFER BY LICENSOR, ACCEPTANCE IS EXPRESSLY LIMITED TO THESE TERMS.

1. **DEFINITIONS**

The following underlined terms shall have the following meanings:

1.1   **Competitive Products** shall mean any product that supports the same or similar functionality as the Software.
1.2   **Documentation** means any Licensor documentation that may be provided to you with the Software, including with any upgrade or update to the Software. Any particular Documentation applies only to the Software with which it is provided and for which it was prepared.
1.3   **Licensee** or **you** means the person or entity obtaining the Software and Documentation and made a party to this Agreement.
1.4   **Object Code** means any compiled, assembled or machine-executable version of the Software, or any part thereof.
1.5   **Software** means this computer program accompanying this Agreement, in Object Code form only, together with upgrades and updates that are made generally available by Licensor, and includes certain third-party software, which may only be used in conjunction with Licensor's Software, and which third parties shall be the direct and intended third-party beneficiaries of this Agreement.
1.6   **Source Code** means the human readable form of the Software.

2. LICENSE GRANT

2.1   Subject to all the terms and conditions of this Agreement, Licensor hereby grants to you a nonexclusive, non-sublicensable, non-assignable right and license, under Licensor's intellectual property rights in the Software and Documentation, to use the Software and Documentation, only in accordance with any applicable Documentation, on the levels of servers and as to the number of client access licenses for which you have purchased a license.

3. OWNERSHIP

3.1   As between the parties, Licensor (or its licensors) retains title to and ownership of and all proprietary rights with respect to the Software and Documentation and all copies and portions thereof. The license grant hereunder does not constitute a sale of the Software or Documentation or any portion or copy of them, and except as expressly provided herein, you do not acquire any intellectual property or other proprietary rights in or related thereto.

4. PROTECTION REQUIREMENTS

4.1   **Legends and Notices.** You shall not remove from the Software or Documentation or modify any product identification, copyright notices or other notices that appear on the Software or Documentation.

4.2   **Copies**. You shall not copy, in whole or in part, the Software or Documentation or modify for any purpose whatsoever without the express written consent of Licensor, except for one copy solely for backup purposes. You must reproduce and include any product identification and notices referred to in Section 4.1 on any copies and any associated media.

4.3   **Certain Restrictions.** You shall not (and shall not allow any third party to): (i) decompile, disassemble, translate, bootleg or otherwise reverse engineer or attempt to reconstruct or discover any Source Code or underlying ideas, algorithms, file formats or programming or interoperability interfaces of the Software, or of any files contained in or generated using the Software, by any means whatsoever; (ii) provide, lease, lend, use for timesharing, outsourcing or hosting or service bureau purposes or otherwise use or allow others to use the Software to or for the benefit of third parties, (iii) modify, incorporate into or with other software or create a derivative work of any part of the Software; or (v) create or disseminate performance information or analysis (including, without limitation, benchmarks) from any source relating to the Software.

4.4   **Competitive Products.** You shall not develop, market or sell any Competitive Product based on or derived in any way from the Software, Documentation or from the benefits of know-how resulting from access to or work with Licensor's Confidential Information. The term "benefits of know how" means information in non-tangible form which may be retained by persons who have had access to the Confidential Information, including ideas, concepts, know how or techniques contained therein.

4.5   **Confidentiality.** You acknowledge that the Software constitutes valuable proprietary information and includes Licensor's trade secrets and copyrights, and you will preserve the confidentiality of the Software in the same manner that you protect your own confidential information and, in any event, with at least reasonable and prudent care.

4.6   **Publicly Available Software.** The Software contains or is provided with components subject to the terms and conditions of "open source" software licenses ("Open Source Software"). Open Source Software may be identified in the Documentation, or Licensor shall provide a list of the Open Source Software for a particular version of the Software to you upon your written request. To the extent required by the license that accompanies the Open Source Software, the terms of such license will apply in lieu of the terms of this Agreement with respect to such Open Source Software, including, without limitation, any provisions governing access to source code,

modification or reverse engineering. You agree to comply with the terms and conditions set forth in the licenses applicable to such Open Source Software.

5. **WARRANTY**

5.1   Warranty. Licensor hereby warrants that, during the Warranty Period, the unmodified Software, when used in accordance with the associated Documentation, will materially conform to the technical specifications set forth in the Documentation applicable to such Software. The "Warranty Period" begins on the date Licensor makes the Software available for electronic download by you and ends ninety days later. This limited warranty is void if Software failure has resulted from modification, accident, abuse, misuse or misapplication of the Software or other conduct or conditions outside the control of Licensor. Your sole remedy for any breach of this limited warranty shall be, at Licensor's sole discretion, either (i) return of the price paid by you for the defective Software or (ii) repair or replacement by Licensor of the defective Software. The warranty set forth in this Section 5.1 will terminate upon any termination of the license granted Hereunder.

5.2   Warranty Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SOFTWARE, RELATED SERVICES AND DOCUMENTATION ARE PROVIDED "AS IS". TO THE EXTENT PERMITTED BY APPLICABLE LAW. LICENSOR, FOR ITSELF AND ON BEHALF OF ITS SUPPLIERS, EXCLUDES ALL TERMS, CONDITIONS AND WARRANTIES, BE THEY EXPRESS OR IMPLIED BY LAW, STATUTE, COURSE OF DEALING, USAGE OR TRADE PRACTICE OR OTHERWISE. SPECIFICALLY, AND WITHOUT LIMITATION, ON ITS OWN BEHALF AND THAT OF ITS SUPPLIERS, LICENSOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY AND ANY WARRANTIES RELATING TO NON-INTERRUPTION OF USE OR FREEDOM FROM ERRORS, VIRUSES OR BUGS. NO PERSON IS AUTHORIZED TO MAKE ANY WARRANTY OR REPRESENTATION ON BEHALF OF LICENSOR CONCERNING THE SOFTWARE OR DOCUMENTATION. TO THE EXTENT AN IMPLIED TERM, CONDITION OR WARRANTY CANNOT BE EXCLUDED OR DISCLAIMED, THEN IT IS LIMITED IN DURATION TO THE WARRANTY PERIOD.

6. **MAINTENANCE**

6.1   Licensor is not responsible for maintenance and support under this Agreement.

7. **TERM, TERMINATION AND SURVIVAL**

7.1   The license granted hereunder is effective until terminated. The license granted hereunder will terminate automatically if you fail to cure any material breach of this Agreement within 30 days of receiving notice of such breach from Licensor or the Partner (or immediately upon notice in the case of a breach of Section 4 (Protection of Software). Upon termination, you shall immediately cease all use of the Software and Documentation and return or destroy all copies of the Software and Documentation and all portions thereof and, at Licensor's request, so certify to Licensor. Except for the license granted hereunder and except as otherwise expressly provided herein, the terms of this Agreement shall survive any termination of the license granted hereunder. Termination is not an exclusive remedy and all other remedies will be available whether or not the license granted hereunder is terminated.

8. **LIMITATION OF REMEDIES AND DAMAGES**

8.1   LICENSOR SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT
MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, TORT (INCLUDING NEGLIGENCE
OR OTHERWISE), STRICT LIABILITY OR OTHER THEORY (i) FOR INTERRUPTION OF USE,
OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF
PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY, OR (ii) FOR ANY
INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL
DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR (iii) FOR ANY
MATTER BEYOND ITS REASONABLE CONTROL. LICENSOR'S LICENSORS SHALL NOT BE
RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS
AGREEMENT UNDER ANY CONTRACT, TORT (INCLUDING NEGLIGENCE OR
OTHERWISE), STRICT LIABILITY OR OTHER THEORY WHATSOEVER. LICENSOR'S
AGGREGATE LIABILITY FOR ALL CLAIMS, ACTIONS AND/OR OMISSIONS ARISING FROM
OR RELATED TO THIS AGREEMENT WILL NOT EXCEED THE AMOUNT OF FEES PAID FOR
THE SERVICES, TO MOTOROLA OR ANOTHER PARTY, IN THE TWELVE (12) MONTHS
PRECEDING THE DATE THE CLAIM ARISES. THESE LIMITATIONS WILL APPLY EVEN IF
ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

9. **GOVERNMENT MATTERS**

9.1   **Export.** You shall comply with all applicable import and export laws, restrictions, and regulations
of any United States or foreign agency or authority. You will not import or export or re-export, or
allow the import or export or re-export of any product, technology or information it obtains or
learns pursuant to this Agreement (or any direct product thereof) in violation of any such laws,
restrictions or regulations.

9.2   **Government Procurement.** As defined in FAR section 2.101, DFAR section 252.227-7014(a)(1)
and DFAR section 252.227-7014(a)(5) or otherwise, all software and accompanying
documentation provided in connection with this Agreement are "commercial items," "commercial
computer software" and/or "commercial computer software documentation." Consistent with
DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release,
performance, display, disclosure or distribution thereof by or for the U.S. Government shall be
governed solely by the terms of this Agreement and shall be prohibited except to the extent
expressly permitted by the terms of this Agreement. You will ensure that each copy used or
possessed by or for the government is labeled to reflect the foregoing.

10. **MISCELLANEOUS**

10.1   **Governing Law.** Venue for Disputes. This Agreement shall be governed in all respects by the
laws of the State of Illinois and the United States, without regard to the choice of law rules
thereof. Application of the U.N. Convention on Contracts for the International Sale of Goods is
expressly excluded.

10.2   **Attorneys' Fees.** In any action or proceeding to enforce rights under this Agreement, the
prevailing party shall be entitled to recover its reasonable costs and attorneys' fees.

10.3   **Equitable Remedies.** The parties agree that a material breach of this Agreement adversely
affecting Licensor's proprietary rights in the Software or Documentation would cause irreparable
injury to Licensor for which monetary damages would not be an adequate remedy and that

Licensor shall be entitled to equitable relief in addition to any remedies it may have hereunder or at law.

10.4 **Waivers;** Amendments. No delay, omission, or failure to exercise any right or remedy provided herein shall be deemed to be a waiver thereof or an acquiescence in the event giving rise to such right or remedy, but every such right or remedy may be exercised, from time to time as may be deemed expedient by the party exercising such remedy or right. Any waivers or amendments shall be effective only if made in writing by non-pre printed agreements and signed by a representative of the respective parties authorized to bind the parties.

10.5 **Invalidity.** In the event that any provision of this Agreement is unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such provision within the limits of applicable law.

10.6 **Assignment.** Neither this Agreement nor any rights granted herein may be assigned or transferred by you, whether voluntarily or by operation of law, without the express written permission of Licensor, and any attempt to do so shall be null and void. This Agreement or any rights or obligations hereunder may be assigned by Licensor without your consent.

10.7 **Relationship of Parties**. Nothing herein shall be deemed to create an employer-employee relationship between Licensor and you, nor any agency, joint venture or partnership relationship between the parties. Neither party shall have the right to bind the other to any obligation, nor have the right to incur any liability on behalf of the other.

10.8 **Entire Agreement.** This Agreement is the complete and exclusive agreement between the parties with regard to the subject matter hereof and supersedes any and all prior discussions, negotiations and memoranda related hereto.

EXHIBIT B

WAVE PTX™

DATA PROCESSING AGREEMENT

When Motorola is a Controller Processing Personal Data subject to GDPR, Motorola shall comply with its Privacy Statement set forth at
https://www.motorolasolutions.com/en_us/about/privacy-policy.html#privacystatement.

When Customer is a Controller and Motorola is a Processor who Processes Personal Data subject to GDPR, the Parties shall comply with the terms and conditions set forth in this Data Processing Agreement ("DPA").

1. DEFINITIONS

Capitalized terms are (i) defined in the Agreement into which this DPA is incorporated by reference into and (ii) defined in this DPA. All other capitalized terms shall have the meaning set forth in GDPR which is defined below.

1.1   **Affiliates** means any legal entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control" for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

1.2   **General Data Protection Regulation** or **GDPR** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data, and repealing Directive 95/46/EC. GDPR includes any data protection laws in any European Union Member State implementing GDPR.

1.3   **Data Breach** means a suspected or actual breach of security leading to the accidental or Unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data Transmitted, stored or otherwise processed or any other type of breach of Personal Data requiring notification under GDPR to regulators, customers, affected individuals and/or any other third party.

1.4   **Order Document(s)** means any electronic or written documents describing the details, quantity, pricing, license fees, deliverables, documentation, license agreements, performance schedules, service level agreements and other terms and conditions about software, goods and services ordered by Customer under the Agreement, including without limitation any order forms, statements of work or purchase orders.

2. PROCESSING OF PERSONAL DATA

2.1   **Roles of the Parties**. The Parties agree that Customer is the Controller solely responsible for determining the purposes and means of the Processing of Personal Data, and Motorola is Customer's Processor responsible for Processing Personal Data on behalf of the Controller. As further set forth in this DPA, Motorola shall only take action pursuant to instructions of Customer with regards to Processing Personal Data and transferring Personal Data to the United States or

any other non-EU country. Motorola may engage Subprocessors to Process Personal Data pursuant to the requirements set forth in <u>Section e</u> "Subprocessors" below.

2.2 **Customer's Obligations**. Customer is solely responsible for its compliance with GDPR, including without limitation the lawfulness of any transfer of Personal Data to Motorola and the Processing of Personal Data by Motorola as set forth in the Agreement. Customer shall have sole responsibility for (i) the accuracy, quality, and legality of Personal Data provided to Motorola; (ii) the means by which Customer acquired Personal Data, including providing any required notices to, and obtaining any necessary acknowledgements, authorizations or consents from, Data Subjects; (iii) the legality of transfers of Customer Data, including without limitation data from third parties, to Motorola; and (iv) transfers of Customer Data from Motorola to Customer and third parties as provided for in the Agreement. Customer takes full responsibility to keep the amount of Personal Data provided to Motorola to the minimum necessary for the performance under the Agreement. Customer shall be solely responsible for establishing and maintaining any Data Processing registers or overview as required by GDPR, including without limitation any records of Processing and any records of consents or any other required documentation.

2.3 **Controller's Right to Issue Instructions**. Except as necessary to comply with an applicable law or regulation, court order, subpoena, or other legal process, Motorola shall only Process Personal Data in accordance with Customer's instructions. For the avoidance of doubt, but not by way of limitation, Customer's instructions for the Processing of Personal Data must comply with GDPR. Customer's initial instructions for the Processing of Personal Data are defined by the Agreement including without limitation this DPA, Schedule 1 to this DPA, any applicable Order Document and any terms and conditions incorporated into the Agreement, the DPA or applicable Order Document. Subject to the terms of this DPA and with mutual agreement of the Parties, Customer may issue additional written instructions concerning the type, extent and procedure of Processing. Any changes of the subject matter of Processing and of procedures shall be agreed upon by the Parties in writing prior to becoming effective. Customer is responsible for ensuring that all individuals who provide written instructions to Motorola are authorized by Customer to Issue instructions to Motorola. Motorola will inform Customer of any instruction that it deems to be in violation of GDPR, and Motorola will not execute such instructions until the instruction has Been confirmed or modified by Customer. If Motorola Processes Personal Data without Customer's instructions as required by law, regulation, court order, subpoena or other legal process, Motorola
shall promptly inform Customer to the extent permitted.

2.4 **Details of Processing**. Customer acknowledges and consents that certain business operations necessary for the fulfillment of the Agreement may have been transferred or will be transferred in the future to one or more dedicated Motorola Affiliates. Motorola may use Customer's employees' and other personnel's name and work contact information, including without limitation work email, phone, fax or other form of work communication, for administrating the contractual relationship. For performing the work under the Agreement, the initial nature and purpose of the Processing, duration of the Processing, categories of Data Subjects, and types of Personal Data are set forth on <u>Schedule 1</u>. Motorola will only use Personal Data that is anonymized or pseudonymized in accordance with GDPR.

2.5 **Data Breach**. Motorola shall investigate potential Data Breaches, and Motorola shall notify Customer without undue delay but no less than seventy-two (72) hours after becoming aware of reportable Data Breach. Motorola shall use commercially reasonable steps to stop any further data breach once becoming aware of the potential breach. Motorola shall conduct an investigation as to the cause of the incident and shall develop commercially reasonable measures to address the security incident.

2.6 **Return or Deletion of Customer Personal Data**. Unless otherwise required by GDPR, Motorola will take the actions set forth in the Agreement or any applicable Order Document, or if not addressed in the Agreement or Order Document(s), destroy or return to Customer Customer's Personal Data in Motorola's possession upon termination or expiration of the relevant provisions of the Agreement.

3. SUBPROCESSORS

3.1 **Use of Subprocessors.** Customer agrees that Motorola may engage Subprocessors who in turn may engage Subprocessors to Process Personal Data in accordance with the DPA. A list of Subprocessors including their addresses is available upon request. When engaging Subprocessors, Motorola shall enter into agreements with the Subprocessors to bind them to obligations which are substantially similar or more stringent than those set out in this DPA. To the

extent required, Customer explicitly mandates Motorola to sign such agreements directly with the Subprocessors. Customer will not directly communicate with Motorola's Subprocessors about the software, services and goods sold or licensed under the Agreement, unless agreed to by Motorola in Motorola's sole discretion.

3.2 **Motorola Subprocessors Added After Effective Date.** Motorola will notifyCustomer in advance of any changes to Subprocessors using regular communication means such as email, websites, and portals. If Customer reasonably objects to the addition of a new Subprocessor (*e.g.*, such change causes Customer to be noncompliant with GDPR), Customer shall notify Motorola in writing of its specific objections within ten (10) days of receiving such notification. If Customer does not object within such period, the addition of the new Subprocessor and, if applicable, the accession to this DPA shall be considered accepted. If Customer does object to the addition of a new Subprocessor and Motorola cannot accommodate Customer's objection, Customer may terminate the portion of the Agreement that requires the services of the such Subprocessor in writing within sixty (60) days of receiving Motorola's notification.

4. REPRESENTATIONS AND WARRANTIES

Customer represents, warrants, and covenants the following:

4.1 The Personal Data has been collected and transferred to Motorola in accordance with GDPR, And Customer has documented its lawful basis in its public notification to Data Subjects for Processing of Personal Data, including without limitation Motorola and its affiliates and Sub-processors Processing of Personal Data in accordance with the Agreement.

4.2 Customer will respond to inquiries from Data Subjects and from applicable regulatory authorities concerning the Processing of the Personal Data in accordance with GDPR, and will promptly alert Motorola of any inquiries from Data Subjects or from applicable regulatory authorities that relate to Motorola's Processing of the Personal Data.

4.3 Customer will make available a copy of this Agreement to any Data Subject or regulatory authorities as required by GDPR.

4.4 Customer shall be solely responsible and liable for its compliance with GDPR.

5. RIGHTS OF DATA SUBJECTS

5.1 Motorola shall, to the extent legally permitted, promptly notify Customer if it receives a request from a Data Subject for access to, correction, amendment or deletion of such Data Subject's Personal Data and, to the extent applicable, Motorola shall provide Customer with commercially reasonable cooperation and assistance in relation to any complaint, notice, or communication from a Data Subject. Customer shall respond to and resolve promptly all requests from Data Subjects which Motorola provides to Customer. If GDPR requires Motorola to comply with the rights of data subjects or otherwise take any corrective actions without the involvement of Customer, Motorola shall take such corrective actions and inform Customer.

6. MOTOROLA PERSONNEL

6.1 **Confidentiality**. Motorola shall train personnel engaged in the Processing of Personal Data of the confidential nature of the Personal Data and provide appropriate training based on their responsibilities. Motorola shall execute written agreements with its personnel to maintain the confidentiality of Personal Data, including post termination of employment.

6.2 **Limitation of Access**. Motorola shall use commercially reasonable efforts to limit access to Personal Data to personnel who require such access to perform the Agreement.

6.3 **Data Protection Officer**. Motorola's data protection officer is identified in Motorola's Privacy Statement which can be found at https://www.motorolasolutions.com/en_us/about/privacy-policy.html#privacystatement.

6. SECURITY

6.1 Motorola will implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk posed by the Processing of Personal Data, taking into account the costs of implementation; the nature, scope, context, and purposes of the Processing; and the risk of varying likelihood and severity of harm to the data subjects. In assessing the appropriate level of security, Motorola shall weigh the risks presented by Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to personal data transmitted, stored or otherwise Processed.

7. AUDIT RIGHTS

7.1 **Audit Requests**. Subject to Section 8.c, upon Customer's written request, Motorola will provide Customer with the most recent summary audit report(s) concerning the compliance and undertakings in this Agreement. Motorola's policy is to share methodology, and executive summary information, not raw data or private information, other individuals' Personal Data or information not applicable to the software, goods and services provided under the Agreement. Motorola will reasonably cooperate with Customer by providing available additional information to help Customer better understand such compliance and undertakings. To the extent it is not possible to otherwise satisfy an audit obligation mandated by GDPR and subject to Section 8.c, only the legally mandated entity (such as a governmental regulatory agency having oversight of Customer's operations), a third Party auditor mutually agreed to by the Parties as well as a Subprocessor if applicable to the information or facilities being audited, and subject to a confidentiality agreement or legally mandated functions within Customer (such as the internal controls function) also subject to a confidentiality agreement may conduct an onsite visit of the facilities used to Process Personal Data. Unless mandated by GDPR or otherwise mandated by law or court order, no audits are allowed within a data center for security and compliance reasons. After conducting an audit under this Section 8 or after receiving a Motorola report under this Section 8, Customer must notify Motorola of the specific manner, if any, in which Motorola does not comply with any of the security, confidentiality, or data protection obligations in this DPA, if applicable. Any such information will be deemed Confidential Information of Motorola. Motorola shall in no circumstances provide Customer with the ability to audit any portion of its Software, goods and services which would be reasonably expected to compromise the confidentiality of the information or Personal Data Motorola Processes for its other customers.

7.2 **Subprocessors**. Customer may not audit Motorola's Subprocessors without Motorola's and Motorola's Subprocessor's prior agreement. Customer agrees its requests to audit Subprocessors may be satisfied by Motorola or Motorola's Subprocessors presenting up-to-date attestations, reports or extracts from independent bodies, including without limitation external or internal auditors, Motorola's data protection officer, the IT security department, data protection or quality auditors or other mutually agreed to Third Parties or certification by way of an IT security or data protection audit. Onsite audits at Subprocessors' premises may be performed by Motorola or a mutually agreed to auditor under a confidentiality agreement acting on behalf of Controller.

7.3   **Audit Process**. Unless required by GDPR, Customer may request summary audit report(s) or audit Motorola no more than once annually. Customer must provide at least thirty (30) business days prior written notice to Motorola of a request for summary audit report(s) or request to audit. The scope of any audit will be limited to Motorola's policies, procedures and controls relevant to the protection of Customer's Personal Data and defined in Schedule 1. Subject to Section 8.b, all audits will be conducted during normal business hours, at Motorola's principal place of business or other Motorola location(s) where Personal Data is accessed, processed or administered, and will not unreasonably interfere with Motorola's day-to-day operations. An audit will be conducted at Customer's sole cost and by a mutually agreed upon third Party, and is under a non-disclosure agreement containing confidentiality provisions substantially similar to those set forth in the Agreement, obligating it to maintain the confidentiality of all Motorola Confidential Information and all audit findings. Before the commencement of any such on-site audit, Motorola and Customer shall mutually agree upon the timing, and duration of the audit. Motorola will reasonably cooperate with the audit, including providing auditor the right to review, but not to copy, Motorola security information or materials during normal business hours. Customer shall, at no charge, provide to Motorola a full copy of all findings of the audit.

8. TRANSFERS OF PERSONAL DATA

8.1   Customer acknowledges and agrees that Processing of Personal Data by Motorola may occur outside the European Economic Area. The Parties agree that such transfers shall comply with the Standard Contractual Clauses (Controller to Processor) set forth in Schedule 2 to this DPA, which are herein incorporated by reference. Customer shall be solely responsible for ensuring that Motorola may transfer Personal Data to any Affiliate, sub-processor or third party as instructed by Customer.

8.2   For the avoidance of doubt, where there is any conflict between the Standard Contractual Clauses and any other part of this Agreement, including the terms of the Subscription Services Agreement, the Standard Contractual Clauses shall take precedence in relation to any Processing of Personal Data by Motorola that may occur outside the European Economic Area.

9. LIMITATION OF LIABILITY; THIRD PARTY BENEFICIARIES

9.1   Each Party's and all of its Affiliates' liability, taken together in the aggregate, arising out of or related to this DPA whether in contract, tort or under any other theory of liability, is subject to the "Limitation of Liability" section of the Agreement, and any reference in such section to the liability of a Party means the aggregate liability of that Party and all of its Affiliates under the Agreement and this DPA. For the avoidance of doubt, Motorola's and its Affiliates' total liability for all claims from the Customer arising out of or related to the Agreement and each DPA shall apply in the aggregate for all claims under both the Agreement and this DPA. The Parties agree that no third parties will be Third Party beneficiaries under this Agreement.

10. DATA PROTECTION IMPACT ASSESSMENT AND PRIOR CONSULTATION

10.1   Motorola shall provide commercially reasonable assistance about its Processing of Personal Data to Customer as necessary for Customer to comply under GDPR with conducting any data protection impact assessments or engaging in required prior consultations with Supervising Authorities (as such term is defined in GDPR).

11. GOVERNING LAW

11.1   The Parties agree that (1) governing law of this DPA, and (2) the forum for all disputes in respect of this DPA, shall be the same as set out in the Agreement, unless otherwise required by GDPR.

12. AFFILIATES

12.1   Motorola and Customer, if Customer's affiliates are party to the Agreement, each warrants and represents that it is duly and effectively authorized to enter into and perform under the Agreement by such Party's Affiliates.

13. SURVIVAL

13.1   For so long as a Party has Personal Data subject to this DPA in its possession, this DPA shall survive any termination or expiration of the Agreement.

Schedule 1 to DPA

Nature and Purpose of Processing

MSI will Process Personal Data as necessary to provide the software, goods and services under the Agreement, as further specified in any Order Documents and as instructed by Customer.

Duration of Processing

Motorola will Process Personal Data for the duration of the Agreement, unless otherwise agreed upon in writing. Motorola will retain Personal Data as set forth in the Agreement and Motorola's Data Retention and Destruction Policy. Customer may use any process, tools or procedures made available by Motorola in the manner intended to remove Personal Data from being Processed by Motorola.

Categories of Data Subjects

Customer directed individuals using the software, goods and services provided by Motorola under the Agreement.

Citizens using the software, goods and services provided by Motorola to interact with Customer.

Type of Personal Data

User Name
User Phone Number
User Email
TLK 100 Serial Number
TLK 100 IMEI/IMSI Number
TLK 100 ICCID Number
TLK 100 GPS Coordinates
TLK 100 Mobile Device Number
MSDIN
Line ID
SIM Status
Creation Date
Request Action
Diagnostic Data on TLK 100
Customer Name
Dealer Name
Distributor Name
Network Location Data
IP Address
Activation Error Messages

Special Type of Personal Data

None

Schedule 2
Standard Contractual Clauses (Controller to Processor)

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection.

Customer

(the data **exporter**)

And

Motorola Solutions,

(the data **importer**)

each a 'party'; together 'the parties',

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

1.   ***Clause 1 Definitions***

For the purposes of the Clauses:

a.   'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

b.   'the data exporter' means the controller who transfers the personal data;

c.   'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

d.   'the sub-processor' means any processor engaged by the data importer or by any other sub-processor of the data importer who agrees to receive from the data importer or from any other sub-processor of the data importer personal data exclusively intended for processing

activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

e. 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

f. 'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2   Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

Clause 3   Third-party beneficiary clause

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the sub-processor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4   Obligations of the data exporter

The data exporter agrees and warrants:

a. that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

b.   that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

c.   that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;

d.   that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

e.   that it will ensure compliance with the security measures;

f.   that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

g.   to forward any notification received from the data importer or any sub-processor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

h.   to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for sub-processing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

i.   that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 by a sub-processor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

j.   that it will ensure compliance with Clause 4(a) to (i).

Clause 5 Obligations of the data importer

The data importer agrees and warrants:

a.   to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

b.   that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

c.   that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

d.   that it will promptly notify the data exporter about:

      i.   any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;

      ii.   any accidental or unauthorised access; and

      iii.   any request received directly from the data subjects without responding to that request, unless it has been otherwise authorized to do so;

e.   to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

f.   at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

g.   to make available to the data subject upon request a copy of the Clauses, or any existing contract for sub-processing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

h.   that, in the event of sub-processing, it has previously informed the data exporter and obtained its prior written consent;

i.   that the processing services by the sub-processor will be carried out in accordance with Clause 11;

j.   to send promptly a copy of any sub-processor agreement it concludes under the Clauses to the data exporter.

Clause 6 **Liability**

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or sub-processor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his sub-processor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by

contract of by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a sub-processor of its obligations in order to avoid its own liabilities.

3.   If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the sub-processor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the sub-processor agrees that the data subject may issue a claim against the data sub-processor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the sub-processor shall be limited to its own processing operations under the Clauses.

Clause 7   **Mediation and jurisdiction**

1.   The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

    a.   to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

    b.   to refer the dispute to the courts in the Member State in which the data exporter is established.

The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8   **Cooperation with supervisory authorities**

1.   The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

2.   The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any sub-processor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3.   The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any sub-processor preventing the conduct of an audit of the data importer, or any sub-processor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5(b).

Clause 9   **Governing law**

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

Clause 10 **Variation of the contract**

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11 **Sub-processing**

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the sub-processor which imposes the same obligations on the sub-processor as are imposed on the data importer under the Clauses. Where the sub-processor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the sub-processor's obligations under such agreement.

2. The prior written contract between the data importer and the sub-processor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

3. The provisions relating to data protection aspects for sub-processing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established

4. The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12 **Obligation after the termination of personal data-processing services**

1. The parties agree that on the termination of the provision of data-processing services, the data importer and the sub-processor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the sub-processor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data-processing facilities for an audit of the measures referred to in paragraph 1.

Appendix 1

to the Standard Contractual Clauses (Controller to Processor)

This Appendix forms part of the Clauses and is, in accordance with Clause 8.1 of the DPA, agreed on signature of the Subscription Services Agreement, and incorporated therein by reference.

The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix.

Data exporter

The data exporter is Customer who has executed the Standard Contractual Clauses and Customer's affiliates, if any, as defined in the Agreement and Order Documents who are established within the European Economic Area and Switzerland and who are authorized under the Agreement to share Personal Data with Motorola.

Data importer

The data importer is Motorola which is providing its Wave PTX OnCloud solution which requires Motorola to process personal data under the instruction of data exporter in accordance with the terms and conditions of the Agreement, including without limitation the Order Documents and DPA.

Data subjects

The personal data transferred concern the following categories of data subjects (please specify):

Customer directed individuals using the software, goods and services provided by Motorola under the Agreement.

Citizens using the software, goods and services provided by Motorola to interact with Customer.

Categories of data
The personal data transferred concern the following categories of data (please specify):

User Name
User Phone Number
User Email
TLK 100 Serial Number
TLK 100 IMEI/IMSI Number
TLK 100 ICCID Number
TLK 100 GPS Coordinates
TLK 100 Mobile Device Number
MSDIN
Line ID
SIM Status
Creation Date
Request Action
Diagnostic Data on TLK 100

Customer Name
Dealer Name
Distributor Name
Network Location Data
IP Address
Activation Error Messages

Special categories of data (if appropriate)

The personal data transferred concern the following special categories of data (please specify): None

Processing operations

The personal data transferred will be subject to the following basic processing activities: data importer will use the transferred personal data to provide the software, goods and services ordered by data exporter under the Agreement, including without limitation the Order Documents and DPA.

**Appendix 2
to the Standard Contractual Clauses**

This Appendix forms part of the Clauses and must be completed and signed by the parties.

Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

Data importer will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Personal Data accessed and used by the Subscription Services, as described in the Order Documents applicable to the specific software, goods and services purchased by data exporter. Data Importer will not materially decrease the overall safeguards during a term.