



## Isabella County Sheriff's Office

**Sheriff Michael Main • Undersheriff Tom Burns**

207 Court Street Mt. Pleasant, MI 48858  
(989) 772-5911 • Fax (989) 773-2739 • Direct Fax (989) 317-4911

Date: Tuesday, November 07, 2017  
To: Margaret McAvoy  
From: Sheriff Michael Main  
Re: Jail Management Software, Jail Tracker

### **BACKGROUND**

The ICSO over the last year has been informed that the current legacy system for jail inmate intake, tracking, release, billing etc. is no longer being supported and will very soon have a sunset end date of use. Our current system LEMS, has been purchased by Caliber Justice, which is a subsidiary of Harris Systems. During the course of the last year the ICSO has researched and reviewed several vendors that offer the same or similar jail inmate software. Upon completion of this search I have determined that the Jail Tracker software offered by Caliber Justice is the best choice for the needs of the jail and is the most cost effective. Although the Jail Tracker software is a version of the legacy system, it also provides the latest advancements in the jail management software, including biometrics, tracking and overall better management tools and notifications for admin and staff.

### **FINANCIAL IMPACT**

This request was presented in the current budget cycle and approved by the BOC as a capital improvement project. The cost of the software is heavily discounted as we are already a customer of the legacy system. The cost of the software upgrade is **\$48,852.00**.

### **OTHER CONSIDERATIONS**

The annual cost of the software is very comparable to the current software that we are using. I have also been in communications with the Isabella County I.T. for the necessary I.T. interface with the project.

### **RECOMMENDATION**

Request the board of commissioners approve the project as listed in the quote and contract provided.

### **ATTACHMENTS**

- 1) Caliber Justice Quote
- 2) Caliber Justice/Harris Contract (reviewed and approved by the Isabella County legal services).

*Isabella County Sheriff*

*Michael Main*

Requests Due	CJ Committee	Board Meeting	Requests Due	CJ Committee	Board Meeting	Requests Due	CJ Committee	Board Meeting
01/04/17	01/10/17	01/17/17	05/03/17	05/09/17	05/16/17	09/06/17	09/12/17	10/03/17
01/25/17	01/31/17	02/07/17	05/24/17	05/30/17	06/06/17	09/20/17	09/26/17	10/17/17
02/08/17	02/14/17	02/21/17	06/07/17	06/13/17	06/20/17	10/04/17	10/10/17	11/07/17
02/22/17	02/28/17	03/07/17	06/21/17	06/27/17	07/18/17	10/25/17	10/31/17	11/21/17
03/08/17	03/14/17	03/21/17	07/05/17	07/11/17	08/01/17	11/08/17	11/14/17	12/05/17
03/22/17	03/28/17	04/04/17	07/19/17	07/25/17	08/15/17	11/22/17	11/28/17	12/19/17
04/05/17	04/11/17	04/18/17	08/02/17	08/08/17	09/05/17	12/06/17	12/12/17	
04/19/17	04/25/17	05/02/17	08/23/17	08/29/17	09/19/17			

Quote For: Isabella County MI Sheriff

Quote Nbr: QUO-01112-M6W6L8

Create Date: 8/8/2017 2:12 PM

Expire Date:

Payment Term:

Contact:

Phone:

Mobile:

Email:

Sales Exec: Kelly White

Mobile:

Email: kwhite@caliberjustice.com

Orders Fax: 270-659-0083

## Pricing Summary

Product Code	Description	Qty	Price Each	Extended Price
JT-KS	KnowledgeSync Module	1	\$5,395.00	\$5,395.00
JT-MS	Annual Maintenance and Support	1	\$9,832.00	\$9,832.00
JT-Bio	Biometrics Module	1	\$6,000.00	\$6,000.00
JT-Install	Installation & Configuration	1	\$9,900.00	\$9,900.00
JT-WKSTCONF	JailTracker Workstation and Configuration	1	\$250.00	\$250.00
JT-ProjMgmt	Project Management	1	\$2,500.00	\$2,500.00
JT-STLD	Software for Life Discount	1	(\$29,990.00)	(\$29,990.00)
JT-Base	Base Module	1	\$17,995.00	\$17,995.00
JT-Accounting	Accounting Module	1	\$11,995.00	\$11,995.00
JT-Schedule	Scheduling Module	1	\$1,195.00	\$1,195.00
JT-DocImage	Document Imaging Module	1	\$2,395.00	\$2,395.00
JT-Program	Programs Module	1	\$1,195.00	\$1,195.00
JT-ElectSig	Electronic Signature Module	1	\$595.00	\$595.00
JT-Web	Web Module	1	\$2,395.00	\$2,395.00
JT-Train	Training / Go Live Support	4	\$1,800.00	\$7,200.00

Grand Total **\$48,852.00**

## Quote Acceptance:

**Caliber Justice, a business unit of Harris Systems USA, Inc.**

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**Terms and Conditions:**

- 1) This Quotation incorporates by reference the following document(s) between Caliber Justice, a business unit of Harris Systems USA, Inc. ("Harris") and Customer: 1) Master Purchase, License & Services Agreement; 2) Master Subscription Services Agreement; 3) End User License Agreement; 4) Software Maintenance and/or Equipment Help Desk terms; and/or 5) Statement of Work, as applicable.
- 2) Any purchase order provided by Customer is valid only for purposes of identifying the "bill to" and "ship to" addresses. No additional terms contained within the purchase order shall be binding on Harris.
- 3) Applicable taxes, shipping and handling are not included unless specifically stated and will be added to the invoice at the time of issuance.
- 4) Each party executing this Quotation acknowledge and warrant that [he][she] is duly authorized by Harris and/or the Customer to execute this Quotation on Harris' and/or the Customer's behalf.
- 5) Unless otherwise marked on the actual invoice, payment terms are net-30 days from the date of invoice.
- 6) Transmission of images of signed Quotation by facsimile, e-mail or other electronic means shall have the same effect as the delivery in-person of manually signed documents.



## INSTRUCTIONS FOR COMPLETING

### Caliber Justice, a business unit of Harris Systems USA, Inc. Master Purchase, License & Services Agreement

This Agreement should be used for public safety Customers purchasing standard products and services and should be presented to a potential Customer early in the process to afford adequate time for review. The file is partially protected so information can be filled in electronically in the appropriate sections provided and forwarded electronically or by hard copy to Customer.

#### Instructions:

1. Fill in all information requested in the Agreement. All required information may be electronically filled in by selecting the gray shaded areas and typing in the applicable information.
2. **Send completed Agreement to Customer via email requesting they sign and return to Harris as noted below.**
3. Fully executed Agreement, including all Exhibits, Statement of Work and Quote, should be returned via mail, fax or email to:

Mail: Caliber Justice, a business unit of Harris Systems  
USA, Inc. ("Harris")  
  
102 W. 3<sup>rd</sup> Street, Suite 750  
  
Winston-Salem, NC 27101  
  
Attn: Lori Hall

Fax: 866-368-8602

Email: [legal\\_caliberjustice@harriscomputer.com](mailto:legal_caliberjustice@harriscomputer.com)

4. Harris will return a fully executed Agreement to the Customer.

**PLEASE CONTACT [legal\\_caliberjustice@harriscomputer.com](mailto:legal_caliberjustice@harriscomputer.com) WITH ANY QUESTIONS REGARDING THIS PROCEDUR**

Caliber Justice, a business unit of Harris Systems USA, Inc.  
**MASTER PURCHASE, LICENSE & SERVICES AGREEMENT**

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

This *Master Purchase, License & Services Agreement* which includes the attached Exhibits (this "Agreement") is between **Caliber Justice, a business unit of Harris Systems USA, Inc. ("Harris")**, and the County of Isabella, a municipal corporation and political subdivision of the State of Michigan, acting on behalf of the Isabella County Sheriff's Office ("**Customer**"). This Agreement sets forth the terms and conditions under which Harris will furnish the Harris Offerings described on a Quotation /Order Form and/or Statement of Work executed by the Parties to Customer.

The attached Exhibits include:

**Exhibit A.....MILESTONE PAYMENT SCHEDULE**

**Exhibit B.....STANDARD SOFTWARE MAINTENANCE SERVICES**

---

Customer	Isabella County MI Sheriff	Contact:	Sheriff Michael Main
Address:	207 Court Street	Email:	<a href="mailto:Isabellasheriff@isabellacounty.org">Isabellasheriff@isabellacounty.org</a>
	Mt. Pleasant, MI 48858	Phone:	(989) 772-5915
		Mobile:	

---

By signing below, each of us agrees to the terms and conditions of this Agreement together with the attached Exhibits. This Agreement contains the complete and exclusive statement of the agreement between us relating to the matters referenced herein and replaces any prior oral or written representations or communications between us. This Agreement shall apply to Customer's purchase and license of Software or Services (collectively, "Harris Offerings") described on a Quotation/Quotation/Order Form and/or Statement of Work executed by the parties. After execution of this Agreement, Customer may from time to time purchase additional Harris Offerings by executing additional Quotation/Quotation/Order Forms and/or Statement of Works with Harris. Customer's Affiliates may also order Systems and additional Harris Offerings hereunder by signing a mutually agreeable Quotation/Quotation/Order Form and/or Statement of Work incorporating this Agreement and reflecting such Affiliate's agreement to be bound by all of the terms and obligations applicable to the Customer under this Agreement. Customer agrees that, unless it is prohibited by law from doing so, Customer shall be liable for any breach by its Affiliates of this Agreement or of any Quotation/Order Form and/or Statement of Work executed by its Affiliates. The parties executing this Agreement on behalf of Harris and the Customer each warrant that [he][she] is duly authorized by their respective party to execute this Agreement on behalf of their respective party and so bind them to the terms and conditions noted herein.

**ACKNOWLEDGED AND AGREED TO BY:**

**Caliber Justice, a business unit of Harris**      **County of Isabella**  
**Systems USA, Inc. ("Harris")**      ("**Customer**")

By: \_\_\_\_\_ By: \_\_\_\_\_

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

**George A. Green, Chair**  
**Isabella County Board of Commissioners**

## 1. Definitions.

**"AFFILIATE"** shall mean the following, as applicable:

If Customer is not a government body or entity, then "Affiliate" shall mean an entity which, as of the Effective Date, controls, is controlled by or is under common control with the Customer. For the purpose of this definition, "control" means the legal or beneficial ownership of (a) fifty percent (50%) or more of the outstanding voting stock of a corporation, (b) fifty percent (50%) or more of the equity of a limited liability company, partnership or joint venture or (c) a general partnership interest in a partnership or joint venture. If Customer is an agency or department of a state, then "Affiliate" shall mean any other agency or department of such state and any county, city, town or municipality in such state. If Customer is a Council of Governments, then "Affiliate" shall mean any government body or entity on behalf of which Customer is entering into this Agreement, provided that Customer has disclosed the identify of such government body or entity to Harris prior to the execution hereof.

**"APPLICATION RELATED SOFTWARE"** shall mean all Harris JMS computer software developed by Harris and/or Harris' partners, resellers, OEM or distributors for which said computer software is designed to help the end-user to perform specific tasks, and which computer software is listed on a Quotation/Order Form.

**"AUTHORIZED COPIES"**: Except as provided in Section 2, the only authorized copies of the Software and Documentation are the copies of each application software package defined in this Paragraph. They are:

- a. The single copy of the Software and the related Documentation delivered by Harris under this Agreement; and
- b. Any additional copies made by Customer as authorized under Section 2.

**"CONFIDENTIAL INFORMATION"**: Information disclosed or obtained by one party in connection with, and during the term of, this Agreement and designated as "Confidential" by the party claiming confidentiality at the time of disclosure. Confidential Information does not include any information which was previously known to the other party without obligation of confidence or without breach of this Agreement, is publicly disclosed either prior or subsequent to the other party's receipt of such information, or is rightfully received by the other party from a third party without obligation of confidence.

**"CUSTOMER LIAISON"**: A Customer employee assigned to act as liaison between Customer and Harris for the duration of the Agreement. Within ten (10) days of the Effective Date, Customer shall notify Harris of the name of the Customer Liaison.

**"CUT LIVE"** shall mean the moment a Customer begins using the JMS software in production.

**"DOCUMENTATION"** shall mean the reference, installation, administrative and programmer manuals relating to the use of the Software delivered by Harris to Customer with the Software. Documentation shall not include marketing materials.

**"EFFECTIVE DATE"** shall mean the latter of the two dates in the above signature block.

**"QUOTATION/ORDER FORMS"** shall mean the Harris ordering schedules which are signed by Harris and Customer (or a Customer Affiliate) to place orders for Harris' Application Related Software products or Services under this Agreement

**"SERVICES"** has the meaning set forth in Section 9 below.

**"SITE"** shall mean a specific, physical location of Customer's business at which the System is deployed as set forth in the applicable Quotation/Order Form.

**"SOFTWARE"** shall mean all or any portion of the Application Related Software product(s) and Documentation provided by Harris to Customer, whether in machine-readable or printed form, which application software product(s) are listed in the applicable Quotation/Order Form and all corrections, updates, upgrades, and enhancements thereto.

**"SSMS"**: The Harris Standard Software Maintenance Services as set forth in Exhibit B.

**"STATEMENTS OF WORK"** or **"SOWs"** shall mean statements of work which are signed by Harris and Customer (or a Customer Affiliate) to place orders for professional services to be performed by Harris under this Agreement.

**"SUPPORTED SOFTWARE"** shall mean Software for which Customer is entitled to receive Software Maintenance.

**"SYSTEM"** shall mean the Software and Services described in the applicable Quotation/Order Form or Statement of Work.

**"Sublicensed Software"** shall mean those components of the Application Related Software that are sublicensed by Harris.

**"SYSTEM CHARGE"** shall mean collectively, as specified in each Quotation/Order Form or Statement of Work (as applicable), fees for Software licenses and fees for installation, training and other services.

**"THIRD PARTY SOFTWARE"** shall mean the software necessary for the Equipment to function properly to allow the Application Related Software to operate on the Equipment, and shall include (I) Open Source software provided to Customer by Harris; (II) operating system software and database software; and (III) Software that the copyrights therein are owned by a party other than Harris and installed on or included with Equipment at the time that such Equipment is purchased by Harris. This definition of Third Party Software expressly excludes any products that are considered Application Related Software.

**"UPGRADE"** shall mean any enhanced and/or improved versions of the Software released after execution of this Agreement.

- 2. Software License and Restrictions.** Contingent upon Customer's compliance with the terms of this Agreement and with all Site, User and use restrictions detailed in a SOW or Quotation/Order Form, Harris grants to Customer a perpetual (subject to Paragraph 13), non-exclusive and non-transferable license to install and permit its employees ("Users") to use the Software solely for Customer's internal purposes. Customer shall not copy the Software except that Customer may create a limited number of copies of the Software as reasonably necessary for archival or back-up purposes. Customer shall not sublicense, redistribute or otherwise allow third parties to use the Software, directly or indirectly, whether on a time sharing, remote job entry or service bureau arrangement or otherwise. Customer will not engage any third party to host the Software for Customer's use, nor will Customer host for others or otherwise make the Software available for use by others. Customer will not modify or prepare derivative works of the Software. Customer will not reverse compile, reverse engineer or reverse assemble the Software or otherwise attempt to derive or obtain any portion of the Software source code. If Customer fails to pay all fees specified in Exhibit A, including Annual Maintenance Fees, then Customer shall forfeit the right and license to use the System and shall return them to Harris.
- 3. Installation and Training.** Harris will provide the installation services and training services specified in a Quotation/Order Form or Statement of Work. Customer will provide prompt and reasonable access to Customer's information, documentation, facilities, equipment, hardware and personnel as requested by Harris to facilitate Harris' performance of the installation services and training services.
- 4. Maintenance.**
  - a. Software Maintenance.** Subject to Customer's payment of the applicable maintenance fees ("Software Maintenance Fees") to Harris, Harris will provide maintenance, software correction and support services for the Software, excluding third party software and Project Deliverables, (such services, "Software Maintenance") during the term of Customer's SSMS and the concurrent warranty period. Software Maintenance will be provided in accordance with Harris' SSMS, in effect as of the Effective Date and attached hereto as Exhibit B.
  - b. No Additional Maintenance.** Harris will have no obligation to provide any maintenance or support services beyond such Software Maintenance as Customer may be entitled to receive by virtue of having paid the associated fees unless such maintenance or support services are expressly set forth in a Quotation/Order Form or Statement of Work.
  - d. Maintenance Lapse.** Customer will not be eligible to receive Software Maintenance unless Customer has received such maintenance continuously from the Effective Date or Customer first pays to Harris the fees that would have been paid to Harris by Customer for any period in which Customer did not elect to receive such maintenance. If this Agreement terminates or Customer discontinues Software for any reason, and then subsequently desires (with Harris' permission) to purchase or reactivate Software in the future, such repurchase or reactivation will be at the prevailing rates at the time of repurchase or reactivation. However, in the event the Software has been updated or replaced by Harris in the interim period, Harris will have to install the new/updated Software for which the Customer could incur an installation charge and a Software license charge.
- 5. Fees & Additional Purchases.**
  - a. Payment Terms.** The attached Exhibit A sets forth the manner in which fees and payments will be allocated and made under this Agreement. Customer will pay without deduction or set-off the fees set forth on the Quotation/Order Form for each Harris Offering purchased or licensed by Customer and services ordered under any Statement of Work. All payments are due within 60 days of the invoice date. Late payments will incur a charge of 1.0% per month, not to exceed the maximum amount allowed by law. Customer shall pay any and all applicable federal, state and local sales, use, value added, excise, duty and any other taxes of any nature (except any taxes based on Harris' net income) assessed on the Harris Offerings. Customer is a tax exempt governmental entity.
  - b.** If Customer wishes to add additional Harris Offerings, Customer agrees to pay the additional fees at the then current Software and Services prices in effect. Software Maintenance Fees shall be increased according to the additional Software fees on the next annual billing date after the additional Software is added. With said payment, the license provided in Section **Error! Reference source not found.** Permits Customer's use of the Software.
  - c. Annual Software Maintenance Fees.** Customer shall pay without deduction or set-off annual Software Maintenance Fee(s), referred to herein as "Annual Maintenance Fee(s)" as set forth on the Quotation/Order Form for each Harris Offering purchased or licensed by Customer. All payments are due within 60 days of the invoice date. Late payments will incur a charge of 1.0% per month, not to exceed the maximum amount allowed by law. Customer shall pay any and all applicable federal, state and local sales, use, value added, excise, duty and any other taxes of any nature (except any taxes based on Harris' net income) assessed on Customer's Annual Maintenance Fees. Customer is a tax exempt governmental entity. In addition, should Customer cancel Software after the start of the new Software Period, Customer is required to pay Harris a pro rata portion of the Annual Maintenance Fee due from the date of renewal through the date of cancellation. If Customer

Fails to pay such invoice within sixty (60) days, or the SSMS lapses for any other reason, a reinstatement fee may be charged in addition to the annual support and maintenance fee. Harris reserves the right to deliver all invoices to Customer via email.

**d. Exclusions.** The System Charge does not include, and Customer agrees to pay, any additional sums for:

- (i) Software, third party software and services not included as part of the System Charge and requested by Customer (including software changes or reconfiguration).
- (ii) Services required by or incurred due to: (1) incomplete site preparation, in accordance with an agreed-upon schedule; or (2) any third party software not furnished with the System that either fails to interface or integrate with the System or materially impairs the System's operation.
- (iii) All of Harris' direct, out-of-pocket travel and associated living expenses, including applicable travel policy per diems and other travel fees.
- (iv) Charges for shipping, freight, insurance, loading, unloading and storage associated with the delivery, installation and repair of the System.

## **6. Confidentiality.**

**a.** Subject to the requirements of the Freedom of Information Act (FOIA) and/or other comparable applicable state law, each party shall hold all Confidential Information in trust and confidence for the party claiming confidentiality and not use such Confidential Information absent express written consent by the party claiming confidentiality. The other party agrees not to disclose any such Confidential Information, by publication or otherwise, to any other person or organization. Customer agrees to timely notify Harris of any request(s) made for disclosure of confidential information.

**b.** Customer hereby acknowledges and agrees that all Licensed Products are Confidential Information and proprietary to Harris. In addition to the other restrictions set forth elsewhere in this Agreement or otherwise agreed to in writing, Customer agrees to implement all reasonable measures to safeguard Harris' proprietary rights in the Harris Offerings, including without limitation the following measures:

- (i) Customer shall only permit access to the Harris Offerings to those employees who require access and only to the extent necessary to perform Customer's internal processing needs.
- (ii) Customer shall not permit removal of copyright or confidentiality labels or notifications from its proprietary materials; and
- (iii) Customer shall not attempt to disassemble, decompile or reverse engineer the Software.

**c.** In the event that a party is required by law to disclose Confidential Information, the Receiving Party shall provide the Disclosing Party with prompt prior notice of such pending disclosure so that the Disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. The Receiving Party shall cooperate with any attempts by the Disclosing Party to obtain such protective order or other appropriate remedy. In the absence of a protective order or a receipt of a waiver, the Receiving Party agrees to furnish only that portion of the Confidential Information that it is legally required to disclose and such disclosure shall not be a breach of this Agreement.

**d.** Notwithstanding the foregoing: nothing herein shall be construed as to prevent Harris or its employees from providing services or developing materials that are similar or identical to or competitive with those developed or provided under this Agreement; Harris may disclose Customer's Confidential Information to contractors engaged by Harris to assist in the performance of any Services hereunder; Harris may disclose to its licensors Customer's identity and such other information regarding Customer's use of the Software as such licensors may require be disclosed by Harris; and Harris may use any ideas, concepts, know-how and techniques used, discovered or reduced to practice while furnishing Harris Offerings to Customer for the benefit of Harris and other Harris customers.

**e.** Customer agrees that in addition to any other remedies that may be available at law, equity or otherwise, Harris shall be entitled to seek and obtain a temporary restraining order, injunctive relief, or other equitable relief against the continuance of a breach or threatened breach of this Section 6 on Confidentiality and Non-Disclosure without the requirement of posting a bond or proof of injury as a condition for the relief sought.

## **7. Ownership.**

**a.** Except for the limited license set forth herein, all rights, title and interests to and in the Software and Services, including without limitation all trademarks, service marks, patents, copyrights, trade secrets and other proprietary rights therein, are reserved and will remain the exclusive property of Harris or its licensors. Customer will not take any action that jeopardizes Harris' or its licensors' proprietary rights. Customer acknowledges and agrees that it acquires no right in the Software, except the limited use license specified in Section 2 above. Harris and its licensors, as applicable, will own all rights in any Authorized Copies of the Software made by Customer. Customer agrees to take, at Harris' sole expense, any actions reasonably requested by Harris to reflect, confirm or perfect such rights in Harris' or an applicable licensor's name.

## **8. Warranty, Indemnity, Remedies.**

**a. Software Warranty.** Harris warrants, for Customer's benefit only, that Supported Software will perform substantially in accordance with the Documentation for a period of one (1) year after the date on which Customer's license for such Supported Software is i) initially installed by Harris per the Quotation/Order Form and SOW, or ii) if by Customer, initially delivered to Customer by Harris. Harris' warranty shall not apply to Supported Software that has been modified by Customer or third parties, or to Supported Software that is installed on computer systems not approved by Harris. Customer agrees to notify Harris in writing before expiration of the preceding period of the failure of any Supported Software to



Satisfy the foregoing warranty and, after verification thereof by Harris, Harris will undertake to correct any reported error in accordance with its Software Maintenance Guide. Customer acknowledges that the Software may not satisfy all of

Customer's requirements and the use of the Software may not be uninterrupted or error-free. Harris warrants, for Customer's benefit only, that it possesses the necessary intellectual rights to license to Customer the Supported Software provided hereunder.

**b. Services Warranty.** Harris warrants that: (i) it will perform the Services in a professional and workmanlike manner; and (ii) the Project Deliverables will perform substantially in accordance with the specifications set forth in the applicable Statement of Work and applicable Documentation for a period of 30 days after delivery to Customer. Customer agrees to notify Harris in writing before expiration of the preceding period of the failure of any Project Deliverable to satisfy the foregoing warranty and, after verification thereof by Harris, Harris will undertake to correct any reported error in accordance with its Software Maintenance Guide.

**d. Indemnity.** If a lawsuit is brought against Customer claiming the Software infringes a U.S. copyright or misappropriates a third party trade secret, Harris will defend Customer in the lawsuit at Harris' expense, and Harris will pay the damages and costs finally awarded against Customer or agreed upon in settlement in the action, but only if: (i) Customer notifies Harris in writing promptly upon learning that a claim may be asserted, but in any case not later than five (5) days after Customer receives notice of such lawsuit; (ii) Customer grants Harris sole control over the defense of the claim and any negotiation for its settlement or compromise; (iii) Customer accepts any remedial actions provided by Harris pursuant to Paragraph 9(e) below; and (iv) Customer provides assistance as Harris reasonably requests. Harris' obligation to indemnify and save Customer harmless under this Section is void if the claim of infringement arises out of or in connection with any modification made to the Software or any use of the Software not specifically authorized in writing by Harris.

**e. Other Rights.** In the event of a claim under Paragraph 9(d) above, Harris shall have the rights to: (i) replace the Software alleged to be infringing with non-infringing software that provides substantially the same functionality; (ii) procure for Customer the right to continue using the affected Software; and (iii) if Harris determines that the foregoing actions set forth in clauses (i) and (ii) of this Paragraph 9(e) are not reasonably practicable or commercially reasonable, terminate Customer's license to use the Software alleged to be infringing and, if such termination occurs before the date that is five (5) years after the date the Software was first licensed by Customer, refund to Customer a pro-rata portion of the license fees paid for the Software based on a five (5) year straight-line depreciation schedule commencing upon such date. Paragraph 9(d) and this Paragraph 9(e) state Customer's exclusive remedy, and Harris' exclusive liability, for any claim of infringement or misappropriation.

**f. Limitations.** Harris will have no obligation to Customer under this Section 8 if: (i) any portion of the Software has been modified after delivery to Customer by any party other than Harris (ii) Customer does not promptly install each Upgrade, update and other fix or error correction provided to Customer by Harris or its licensors or equipment manufacturers; (iii) an alleged infringement or misappropriation or warranty failure is based upon the combination of the Software with any software or equipment not provided to Customer by Harris; or (iv) an alleged infringement or misappropriation or warranty failure was caused by Harris' compliance with Customer's instructions or upon the incorporation of computer code or other materials into the Software or equipment at Customer's request.

**g. Third Party Software.** Customer acknowledges and agrees that Third Party Software provided to Customer by Harris is provided to Customer pursuant to the terms of the licensor's applicable license, and Customer agrees to be bound thereby and that such terms govern any conflict between those terms and this Agreement. Customer will acquire only those rights in the Third Party Software granted by applicable license and accorded by applicable law. In the event that any Third Party Software provided by Harris to Customer requires acceptance of a "shrink wrap" or "box top" license or agreement or execution of a "click-through" license or agreement for the access, opening, unpacking, installation or configuration thereof, Customer acknowledges and agrees that Harris may act as an agent on Customer's behalf in accepting and executing such license or agreement on behalf of Customer. HARRIS PROVIDES THE THIRD PARTY SOFTWARE "AS IS" AND WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED. THE WARRANTIES, INDEMNITIES, AND REMEDIES SET FORTH IN THIS SECTION 8 DO NOT APPLY TO THIRD PARTY SOFTWARE OR ANY BREACH, INFRINGEMENT, OR MISAPPROPRIATION ALLEGED TO BE CAUSED BY THIRD PARTY SOFTWARE. Customer acknowledges it must look exclusively to the manufacturer of the Third Party Software for any warranty, maintenance, support or other service or remedy relating thereto. Software Maintenance does not apply to Third Party Software.

**h. High Risk Activities.** The Harris Offerings and Project Deliverables may contain technology that is not fault-tolerant and is not designed or intended for use in hazardous environments or other applications requiring fail-safe performance, including without limitation, in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, weapons systems, direct life-support machines or any other application in which the failure of the Harris Offerings or Project Deliverables could lead directly to death, personal injury or severe physical or property damage (collectively, "High Risk Activities"). Customer represents that it is not acquiring any of the Harris Offerings for use with High Risk Activities and Customer agrees that Harris shall have no liability of any kind relating to any Harris Offering used in High Risk Activities.

**i. Compliance with Laws.** Customer agrees that it will comply with all U.S. and foreign laws, regulations and orders applicable to Customer's use of the Systems, including all applicable U.S. export control laws and U.S. Export Administration Regulations and related Executive Orders. To the extent permitted by law and without waiving governmental immunity, Customer shall defend, indemnify, pay and hold harmless Harris from and against all loss and liability arising out of or relating to Customer's failure to comply with such applicable U.S. and foreign laws, regulations or orders.

**j. WARRANTY DISCLAIMER.** EXCEPT AS EXPRESSLY PROVIDED HEREUNDER, TO THE FULL EXTENT PERMITTED BY

APPLICABLE LAW, HARRIS MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE SOFTWARE, SERVICES, HARRIS OFFERING(S) OR ANY THIRD PARTY SOFTWARE OR OTHER MATERIALS, SERVICES, INFORMATION OR TECHNOLOGY, AND HARRIS EXPRESSLY DISCLAIMS ALL SUCH WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

k. Publication of Data. Customer agrees that it is responsible for the content published on a website hosted by Harris.

9. **Additional Professional Services.** Harris will provide the professional services described in each Statement of Work signed by the parties (the "Services"). Customer agrees that each such Statement of Work incorporates by reference the terms and conditions of this Agreement and constitutes a separate agreement for the purchase of Services. Any change in the scope of Services must be agreed upon in writing by Harris and Customer, and may result in additional fees and scheduling changes, as determined by Harris. If specified in a Statement of Work, Harris will provide to Customer deliverable(s) created specifically for Customer (any such deliverables provided to Customer by Harris being referred to herein as the "Project Deliverable"). Unless otherwise set forth in a Statement of Work or in this Agreement, Project Deliverables shall be deemed to be part of the Software for purposes of this Agreement. During installation of the System or any Project Deliverables, the Customer shall have the same responsibilities as are outlined in Section 8 of the Software Maintenance Guide (EXHIBIT B, attached), including but not limited to the Customer's responsibility to provide Harris with secure high speed remote access to all servers and work stations running the Software. Customer will grant access rights to all Harris personnel so designated by Harris as authorized by Harris to need access rights.

**10. Acceptance Testing.**

a. Acceptance Testing Procedure. In the event a Quotation/Order Form specifies that Customer's acceptance of all or part of the order specified therein is subject to successful completion of acceptance testing, the following procedures and time periods shall apply: Customer will be entitled to test the Software and Project Deliverable as applicable to determine if they operate in accordance with, and otherwise conforms to the mutually agreed upon criteria ("Acceptance Criteria"). If acceptance testing is a required term in a Quotation/Order Form but the period or procedures for such acceptance testing are not specified on the Quotation/Order Form, then (i) Customer will have sixty (60) days from the date the Software/Project Deliverable is delivered to Customer in which to complete all acceptance testing, and (ii) Customer may use its own internal test procedures and any sample input. Acceptance of the Software/Project Deliverable shall not be deemed to constitute a waiver by Customer of any rights it may have based on Harris' warranties. If no Acceptance Criteria are set forth in a Quotation/Order Form or SOW, then the Acceptance Criteria shall be that the Software/Project Deliverables perform in substantial compliance with the applicable Documentation.

b. Acceptance or Rejection. If Customer determines the Project Deliverable/Software (as applicable) successfully operates in accordance with, and otherwise conforms to, the Acceptance Criteria, Customer will notify Harris that Customer accepts the Software/Project Deliverable within sixty (60) days of the completion of the applicable testing period. If Customer determines the Software/Project Deliverable does not operate in accordance with, or otherwise conform to, the applicable Acceptance Criteria, then Customer will provide Harris with a notice describing the nonconformance to the Acceptance Criteria within sixty (60) days of the completion of the applicable testing period. Harris will have thirty (30) days from the date it receives Customer's notice of the nonconformance to correct (at no additional cost to Customer) the Software/Project Deliverable. When Harris re delivers the Software/Project Deliverable, Customer will be entitled to repeat the testing process. The Software/Project Deliverable ordered on any Quotation/Order Form will be deemed to have been accepted by Customer if (i) Customer does not provide Harris with a written notice of nonconformance to the Acceptance Criteria within sixty (60) days after expiration of the applicable testing period, or (ii) the Software/Project (as applicable) is put into production use by the Customer.

11. **LIABILITY LIMITATION.** HARRIS' ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDIES ARE SET FORTH HEREIN. UNDER NO CIRCUMSTANCES WILL HARRIS BE LIABLE UNDER THIS AGREEMENT FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES OR LOST PROFITS OR COSTS OF COVER, WHETHER FORESEEABLE OR UNFORESEEABLE, REGARDLESS OF WHETHER SUCH DAMAGES ARE ASSERTED TO ARISE OUT OF BREACH OR FAILURE OF EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT, FAILURE OF ANY REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE OR OTHERWISE, DAMAGES ARISING FROM LOSS OF DATA OR PROGRAMMING, LOSS OF REVENUE OR PROFITS, FAILURE TO REALIZE SAVINGS OR OTHER BENEFITS AND DAMAGE TO EQUIPMENT. HOWEVER, THIS LIMITATION SHALL NOT APPLY TO ANY CLAIMS ARISING FROM HARRIS' VIOLATION OF LAW IN THE PERFORMANCE OF THIS AGREEMENT. HARRIS' LIABILITY FOR ANY FORM OF ACTION SHALL ONLY APPLY AFTER ANY AND ALL APPROPRIATE INSURANCE COVERAGE HAS BEEN EXHAUSTED.

12. **Term and Termination.** The term of this Agreement will commence upon the Effective Date and shall continue until terminated pursuant to the provisions herein (such period, the "Term").

a. If Customer fails to make prompt payments to Harris when invoiced, including but not limited to all fees specified in Exhibit A, including Annual Maintenance Fees, or if Customer fails to fulfill its responsibilities under this Agreement, including but not limited to those outlined in Section 15, then Harris may at its option terminate this Agreement with written notice as follows:

(i) The termination notice shall define the reason for termination;

Caliber Justice, a business unit of Harris Systems USA, Inc. ("Harris")  
Master Purchase & License Agreement [for JMS-only] v3 (2017-01-20)

(ii) If the cited reason for termination is Customer's failure to make prompt payment, Customer shall have thirty (30) days from receipt of said notice to make payment in full for all outstanding invoiced payments due:

(iii) If the cited reason for termination is Customer's failure to fulfill its responsibilities, Customer shall have ninety (90) days from receipt of said notice to correct any actual deficiencies in order to satisfy the terms of this Agreement;

(iv) During the applicable cure period, Harris will use sound management practices and its best efforts to resolve any issues or obstacles – including the reassignment of personnel if necessary to improve the working relationship;

(v) At the end of the applicable cure period, unless the termination has been revoked in writing by Harris, the Agreement terminates.

b. In the event of termination, Harris shall continue to provide its services, as previously scheduled, through the termination date and the Customer shall continue to pay all fees and charges incurred through the termination date as provided in the attached Exhibits.

c. Upon termination under Subparagraph 12.a, Customer shall return to Harris all Licensed Products, including any copies provided to or created by Customer under this Agreement. If termination is for lack of payment, Customer shall return all tangible Harris Offerings identified on the Quotation/Sales Order Form.

d. The Terms and Conditions relating to ownership, warranties, non-recruitment of personnel, confidentiality and non-disclosure, limitation of liability and recoverable damages, dispute resolution and the General provisions, survive termination.

e. The continued use of the Software is contingent on Customer paying the Annual Maintenance Fees pursuant to the Support and Maintenance Agreement delineated specifically for the Software. The License to the Software will automatically expire where payment of the applicable Annual Maintenance Fees is not received pursuant to the terms of the Annual Support and Maintenance Agreement.

f. Notwithstanding any other provision in this Agreement to the contrary, Customer may, with or without cause, terminate this Agreement upon thirty (30) days prior written notice to Harris.

**13. Governing Law and Venue.** This Agreement shall be construed according to the laws of the State of Michigan. The Customer and Harris agree that the venue for the bringing of any legal or equitable action under this Agreement shall be established in accordance with the statutes of the State of Michigan and/or Michigan Court Rules. In the event that any action is brought under this Agreement in Federal Court, the venue for such action shall be the Federal Judicial District of Michigan, Eastern District, and Southern Division.

**14. Assignment.** Customer may not assign this Agreement without the prior written consent of Harris, which consent shall not be unreasonably withheld. Harris may, with prior written consent of Customer, assign this Agreement to a successor entity in the event of its dissolution, acquisition, sale of substantially all of its assets, merger or other change in legal status, its right to payment hereunder or grant a security interest in this Agreement or such payment right to any third party. Harris may perform any obligation pursuant to this Agreement using agents and subcontractors. The Agreement shall inure to the benefit of and be binding upon the Parties to this Agreement and their respective successors and permitted assigns.

## **15. Customer Liaison and Customer Responsibilities**

The successful implementation of the Licensed Products into Customer's environment requires Customer's commitment to and cooperation in the implementation process. Accordingly, Customer hereby agrees to the following:

a. Customer understands that Customer is responsible for procuring its own equipment;

b. Customer understands that the Licensed Software is designed to run in a specified operating environment which includes hardware, software and related equipment;

c. Customer is responsible for assuring that the appropriate hardware equipment, related components and all cabling are installed timely and are suitable for the successful installation of the Licensed Software.

d. Customer agrees to provide the management interface and support necessary to successfully complete the implementation of the Licensed Software. This support includes upper level management priority setting and timely involvement during and after a change in Customer's organization, Customer's operations and/or after changes in Customer's internal policies or procedures which directly affect the software implementation.

e. Customer shall assign an upper level employee to serve as the Customer Liaison for the duration of the Licensed Software implementation. If Customer must replace the Customer Liaison for reasons beyond its control, Customer will assign a new Customer Liaison as soon as reasonably possible. Harris is not responsible for any delay caused directly or indirectly by the reassignment of the Customer Liaison. In addition to other duties and responsibilities, the Customer Liaison shall:

(i) provide timely answers to Harris' requests for information;

(ii) coordinate a mutually agreeable implementation and training schedule;

(iii) have authority to sign for and obligate Customer to any matters relating to service requests, design documents, performance test documents and/or delivery and service dates;

(iv) In situations where Customer participation is required, provide timely input for systems definition, detail design, and use of the software system.

f. Customer is responsible for creating and maintaining its master files, tables and the like which includes

Accurate data entry, accurate file editing and overall file control to assure successful systems performance.

**g.** Customer shall provide qualified personnel with sufficient backup to be trained to use the Licensed Software and to interpret the output. Applying the output information in Customer's environment is Customer's sole responsibility.

## **16. General.**

**a.** Customer will not knowingly transfer to parties that will subsequently re-export the Software to embargoed countries or allow export, directly or indirectly, of any product acquired under this Agreement without first obtaining an export license from the US Department of Commerce or any other agency or department of the United States Government, as required.

**b.** All notices required or provided hereunder shall be in writing and will be deemed given as of the day received either by receipted, nationwide overnight delivery service or in the U.S. mails, postage prepaid, certified or registered, return receipt requested, to the addresses and attention of the representatives specified below with copy to each party's General Counsel.

**c.** The Software is provided with Restricted Rights. Use, duplication, or disclosure for or by the government of the United States, including without limitation any of its agencies or instrumentalities, is subject to restrictions set forth, as applicable: (i) in subparagraphs (a) through (d) of the *Commercial Computer Software-Restricted Rights* clause at FAR 52.227-14, or FAR 52.227-19; (ii) in subparagraph (c)(1)(ii) of the *Rights in Technical Data and Computer Software* clause at DFAR 252.227-7014, DFAR 252.227-7015, DFAR 252.227-7018, or DFARS 252.227-7013; or (iii) in similar clauses in other federal regulations, including the NASA FAR supplement. The contractor or manufacturer is Harris, and/or a third party as may be noted on the Quotation/Order Form and/or SOW. Customer will not remove or deface any restricted rights notice or other legal notice appearing in the Software or on any packaging or other media associated with the Software. Customer will require that its users and other recipients, if any so authorized by Harris herein, agree to and acknowledge the provisions of this Section 16.c, in writing.

**d.** Customer grants to Harris the right to use Customer's name and trademarks solely as a client reference in promotional and marketing materials in accordance with generally accepted industry standards and practices for such references.

**e.** Harris and Customer are independent parties. Nothing in this Agreement will be construed to make either party an agent, employee, franchisee, joint venturer or legal representative of the other party.

**f.** Neither Party shall be liable to the other Party or shall be subject to termination of this Agreement by the other Party, for any delay, nonperformance, loss or damage (other than for failure to pay any amount when due) because of reasons beyond its reasonable control including, but not limited to, acts of God, acts, regulations or laws of any government, acts of terrorism, war, riots, civil unrest, power failures, accidents in transportation or other causes beyond the reasonable control of the respective Party.

**g.** Except as otherwise provided, any obligations and duties which by their nature extend beyond the expiration or termination of this Agreement, shall survive the expiration or termination of this Agreement, including the terms of Sections 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, and 17.

**h.** No waiver, amendment or other modification of this Agreement will be effective unless in writing and signed by the party against whom enforcement is sought. The paragraph headings which appear herein are included solely for convenience and shall not be used in the interpretation of this Agreement. If any provision of this Agreement is held unenforceable, in whole or in part, such holding will not affect the validity of the other provisions of this Agreement.

**i.** This Agreement and its schedules constitute the complete and entire statement of all terms, conditions and representations of the agreement between Harris and Customer with respect to its subject matter and supersede all prior writings or understandings, including any prior agreement regarding confidentiality that may have been entered into by the parties.

**j.** This Agreement may be executed by the parties hereto in multiple counterparts and shall be effective as of the Effective Date when each party shall have executed and delivered a counterpart hereof, whether or not the same counterpart is executed and delivered by each party. When so executed and delivered, each such counterpart shall be deemed an original and all such counterparts shall be deemed one and the same document. Transmission of images of signed signature pages by facsimile, e-mail or other electronic means shall have the same effect as the delivery in person of manually signed documents.

**k.** Harris, as required by law, shall not discriminate against a person to be served or an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight or marital status. Harris shall adhere to all applicable Federal, State and local laws, ordinances, rules, regulations and policies prohibiting discrimination. Breach of this Section shall be a material breach of this Agreement.

**l.** Harris shall maintain appropriate general liability insurance, workers' compensation insurance, automobile insurance, and professional liability insurance for the duration of this Agreement and will provide a copy of the policy limits and certificates of insurance upon request of Customer.

# Caliber Justice

## EXHIBIT A: MILESTONE PAYMENT SCHEDULE

Harris will provide a milestone payment schedule for the Software, Equipment, Third Party Software and Services for each Subsystem listed on the Quotation/Order Form as follows:

**Payments Regarding Quotation Number QUO-01112-M6W6L8, Dated 8/8/2017 2:12 PM:**

1. 50% Software at signing of this Agreement
2. 50% Software upon delivery and installation of the Software
3. Services and Travel billed monthly through completion of the project
4. **Maintenance Service & Payments in Subsequent Years**  
The term "Annual Maintenance" when used on a Quotation/Order Form designates fees associated the annual fee for maintenance services only. Second year maintenance service begins on the anniversary date of Harris' delivery to the Customer. Prior to the beginning of the second and subsequent year maintenance service periods, Harris shall determine the fees applicable to such year and provide the Customer with an invoice for annual maintenance upon the anniversary date of the order. The maintenance service period for future years will begin on the anniversary date of the maintenance service for the Software delivered to the Customer.
5. **Other Milestones**
  - a. Upon order the Customer shall pay Harris 50% of Custom Interfaces and Other Customizations.
  - b. Upon the beginning of Productive Use, the Customer shall pay Harris 50% of Custom Interfaces and Other Customizations.
  - c. Upon order the Customer shall pay Harris 100% of Change Orders.

# Caliber Justice

## EXHIBIT B: Standard Software Maintenance Services

This Caliber Justice ("Harris") Standard Software Maintenance Services (SSMS) between Harris and Isabella County MI Sheriff sets forth the standard software maintenance support services provided by Harris. The Software manufactured by Harris is covered under this Agreement. Third party software is not covered under this Agreement and shall be covered under the third party manufacturers' maintenance terms for support. Capitalized terms in this Agreement shall have the same meaning as defined in the Master Purchase, License and Services Agreement to which this Agreement is attached as Exhibit B.

### 1. Warranty Period and Service Period

The warranty period shall begin on the delivery date of the Software and end one (1) year later. This SSMS shall begin concurrently with the warranty period and remain in effect for a period of five (5) years (the "SSMS term"), ending on the same calendar date at the conclusion of the SSMS term.

### 2. Licenses Included In SSMS

The SSMS entitles customers to obtain licenses to utilize all upgrades and new releases of the Software released by Harris over the five (5) year period of the maintenance agreement. Prior releases of licensed Software are supported no longer than (9) months after a new release is announced by Harris. Through participation in working groups across the Country, as well as regular Harris with Customers, Harris is continuously improving its Software and this SSMS gives Customers the ability to take advantage of the latest innovations.

The costs associated with an upgrade or moving a Customer to a new version of Software are not included under the SSMA. Consequently, costs including but not limited to travel to the site, assembly, set up, configuration, consulting, installation, and training will be billed at the then current hourly rate, plus travel expenses. A cost estimate will be provided to Customer and approved by Customer before work commences. Customer will also be responsible for the cost of any equipment replacements or upgrades that may be necessary to accomplish the upgrade or to install the new version of Software.

### 3. Support Services for Software

#### a. Description of How Support Is Performed

The SSMA includes the services of Harris' technical staff that perform support remotely utilizing the phone and a high speed internet connection. Software issues can be diagnosed and fixed remotely as long as the Customer has not misused the System and has maintained its equipment and Software in accordance with the Systems manual. In any case in which technical staff is required to visit the site to perform support services, the Customer will be charged for time and materials at the then current Harris hourly rate, plus travel expenses.

#### b. Covered Software Issues

Software Maintenance covers any issue or problem that is the result of a verifiable, replicable error (Harris will use all reasonable means to verify and replicate) in the Licensed Software ("Verifiable Harris Issue"). An error will be a Verifiable Harris Issue only if it constitutes a material failure by the licensed Software to function in accordance with the applicable licensed Software Documentation. Errors caused by the following circumstances are not covered under the SSMS:

- i. The licensed Software was modified by a party other than Harris or

- ii. The error was caused by a defect, failure or issue with Customer's equipment or third party software not procured by Harris, unless Harris specifically indicated the equipment and/or software was interoperable with the licensed Software.

If Technical Support determines the Customer's problem is not caused by Harris or its Systems, or Software, or is otherwise outside Harris' reasonable control, Harris is not obligated to provide support under this Agreement. This scenario is called "out of scope support." For out of scope support, whether provided remotely or at Customer's site, the Customer agrees to pay Harris its fees for time and expense at Harris' then current rate, in addition to any travel expenses incurred by Harris for onsite "out of scope support."

#### c. Availability of Support—Hours and Days

Customer will have access to Harris' technical support personnel ("Technical Support"), twenty-four (24) hours a day, seven (7) days a week. Communications with Technical Support will take place through the phone or portal.

The technical support personnel can be reached at the following phone number and portal address:

Phone: 270-659-0241; [caliberjustice.microsoftcrmportals.com](http://caliberjustice.microsoftcrmportals.com)

Harris provides a single entry point of contact that routes requests/problems to the appropriate Technical Support. The following chart depicts Severity Levels for problem reporting and response plan requirement for ensuring timely restoration. Users will report software and system related problems to the technical support personnel. The user will designate which level of Severity applies based upon the below chart.

Severity Level	Problem Type (if applicable)	Response
Severity 1	Major system failure - application is unavailable for use by correctional facility.	Within 2 hours from receipt of notification – problems are acknowledged and appropriate personnel are assigned to and engaged in problem resolution with workaround or long term fix.
Severity 2	Significant system impairment – loss of critical operational component, but JMS work may continue to operate.	Within 2 hours from receipt of notification during normal business hours – may include workaround fix or full repair.
Severity 3	Technical questions, upgrades, intermittent problems, system problems being monitored by a Harris software engineer, questions related to an identified problem, and work to be performed at a later time.	Within 24 hours from receipt of notification during normal business hours.
Severity 4	Scheduled maintenance and scheduled upgrades.	As scheduled.

#### 4. Software Maintenance Lapse

The Customer shall not be eligible to receive Software Maintenance unless the Customer has received such maintenance continuously from the effective date of this Agreement or the Customer first pays to Harris such fees as would have been paid to Harris by the Customer for any period in which the Customer did not elect to receive such maintenance.

#### 5. Representative

The Customer shall designate a specific person or persons from each location at which the Licensed Software is installed to be the point of contact under this Agreement (the "Representative"). The Customer may change the Representative upon notice to Harris.

## **6. Billing**

Maintenance costs will be billed annually, subject to annual price increases, beginning on the start date and on the same day each year thereafter. The Annual Maintenance Fees for each renewal are payable in full prior to the start of the renewal term and are non-refundable. All payments are due within 30 days of the invoice date. Late payments will incur a charge of 1.0% per month, not to exceed the maximum amount allowed by law. Customer shall pay any and all applicable federal, state and local sales, use, value added, excise, duty and any other taxes of any nature (except any taxes based on Harris' net income) assessed on Customer's Annual Maintenance Fees.

## **7. Additions of Software to Maintenance Agreement**

Additional Software licenses purchased by Customer will be added to the SSMS upon delivery. Costs of the maintenance for the additional Software will be billed to Customer on a pro rata basis for the remainder of the maintenance year and on a full year basis thereafter.

## **8. Customer's Responsibilities**

- a. Customer will initiate all requests for Software Maintenance. A Representative of the Customer must be present at the location during the performance of any Software Maintenance if required. Customer may add additional contacts to the list of Software Maintenance contacts.
- b. In the event Customer and Harris have agreed that Harris will provide any installation services, Customer agrees to assist in the provision of such installation services.
- c. Customer accepts sole responsibility for any compatibility problems between the Software and any other application software or non-current software programs not maintained or supported by Harris.
- d. Customer will provide Harris with a secure high speed remote access with a static internet IP address, to all servers and work stations running the Software, with firewall protection between the JMS network and the internet ("Secure VPN"). Customer will grant access rights to all Harris personnel designated by Harris as authorized by Harris to need access rights. The Secure VPN solution employed by the Customer must support the Cisco VPN client and/or the Windows VPN client and/or Harris' BOMGAR support tool. Should customer fail to provide a Secure VPN, Harris reserves the right at any time, without notice, to triple the then current annual maintenance fee billed Customer.
- e. Customer shall at all times maintain protection against network virus, worms and other external threats to the Software.
- f. It shall be the responsibility of the Customer to maintain all operating system and firmware updates, including version releases, patches and service packs for any third party software that has been installed by Harris.
- g. It shall be the sole responsibility of the Customer to perform any and all backups of their System.
- h. It shall be the sole responsibility of the Customer to administer any and all passwords and password changes in their System, including any password changes to Harris Mobile; Harris will defer all requests for password changes to the Customer's Administrator.

## **9. Virtual Environments.**

- a. When using Virtual Machines ("VM's") running VMware or other Virtual Environments, the customer is responsible for the following:
  - i. Harris must approve the Customer-provided Virtual Environment, including hardware, number of virtual machines running on the host, network bandwidth, disk systems or any other aspect of the Virtual Environment.
  - ii. Customer is responsible for the hardware and hardware support for the physical server that runs the Virtual Machines – the VM Ware Host
  - iii. Customer is responsible for the support of the VMware, including but not limited to, licensing, updates, support, and any other issue which is VMware related
  - iv. Customer will provide and procure support and maintenance of the Operating system and Database software running on the Virtual Machines
  - v. Virtual Environments shall be limited to only Harris products and those JMS-related products (JMS). Customer's production servers may not operate on the same Host environment as Harris' products



- vi. Harris is not responsible for loss of performance due to issues with VMware, Host Server workload, Host network bandwidth or disk storage space.

## **10. Submitting a Request / Obtaining an Answer.**

At the time of Customer's initial call or e-mail, please prepare to provide:

- a. Contact name, company name and Software Customer is using;
- b. The type of browser (with release version) and hardware Customer is using (if applicable);
- c. Software Version Number
- d. Telephone number and alternate method of contact (i.e. a pager number or email address);
- e. Contact method preferred (i.e. phone or email);
- f. A concise description of Customer's problem or question;
- g. The circumstances under which the problem does or does not occur; and
- h. Specific error messages, error numbers, log files and program numbers.

For new cases, a Harris Customer Support Specialist will use the following process to assist Customer with a new case (problem):

- a. Document the supplied information;
- b. Document Customer's questions or issues (symptom and function in which it occurs);
- c. Answer Customer's questions or have Customer run tests to further identify and isolate the problem; and
- d. Research the problem and provide resolution according to the aforementioned guidelines.

## **11. Limitation**

This Standard Software Maintenance Services states Customer's sole and exclusive remedies and Harris sole and exclusive responsibilities with respect to Software Maintenance of any Harris Software.