

Bill No. 394  
2015

By-law No. A.- \_\_\_\_\_

A by-law to authorize an Amending Agreement No. 1 to the Software FX Agreement for the software updates and related support services related to radio system upgrade OneVoice 2.0 between Harris Canada Systems Inc., and The Corporation of the City of London and to authorize the Mayor and the City Clerk to execute the Amending Agreement.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Amending Agreement between Harris Canada Systems Inc., and The Corporation of the City of London attached as Schedule "A" to this by-law is approved.
2. The Mayor and the City Clerk are authorized to execute the Amending Agreement approved under section 1 above.
3. This by-law shall come into force and take effect on the day it is passed.

PASSED in Open Council on November 24, 2015.

Matt Brown  
Mayor

Catharine Saunders  
City Clerk

First Reading – November 24, 2015  
Second Reading – November 24, 2015  
Third Reading – November 24, 2015

**SCHEDULE A**  
**AMENDMENT No. 1**  
**TO**  
**SOFTWARE FX AGREEMENT**

This Amendment No. 1 dated \_\_\_ November 2015 is to the Software FX Agreement executed as of 24 October 2014 (hereinafter this "Agreement") by and between

**HARRIS CANADA SYSTEMS INC**, having its business offices at 2895, Unit 5, Argentia Road, Mississauga, Ontario Canada L5N 8G6, hereinafter referred to as "**HARRIS** or "**SELLER**".

and

**THE CORPORATION OF THE CITY OF LONDON**, including London Police Service, 300 Dufferin Avenue, PO Box 5035, London, Ontario Canada N6A 4L9, hereinafter referred to as "**SUBSCRIBER**".

The contracting entities hereinafter collectively referred to as the "Parties" and separately as the "Party".

Whereas, the Parties entered into a Software FX Agreement as of 24 October 2014 (the "**AGREEMENT**") whereby during the term of the **AGREEMENT**, and any renewal period thereof, **HARRIS** is to provide **SUBSCRIBER** with its Designated System software updates and related support services as defined in and according to the terms and conditions of said **AGREEMENT**;

Whereas, pursuant to the **AGREEMENT** **SUBSCRIBER** will pay **HARRIS** the fees set forth in Schedule A of the **AGREEMENT** and at the time periods indicated therein;

Whereas, pursuant to a separate purchase order **XXX** **SUBSCRIBER** purchased from **HARRIS** certain system upgrade equipment and services as outlined in said purchase order **XXX** ("System Upgrade");

Whereas, **HARRIS** has recommended and **SUBSCRIBER** has accepted **HARRIS**' proposed five (5) year Life Cycle Plan for the support of the Designated System with the System Classification and configuration as of implementation of the System Upgrade; and

Whereas, the Parties now desire to enter into this Amendment No. 1 to the **AGREEMENT** to update and amend the terms of the **AGREEMENT** to include the terms and conditions of the 5 Year Life Cycle Plan as set forth in this Amendment No. 1. Except for the terms and provisions of the **AGREEMENT** modified in this Amendment No. 1, including Schedule B, all other terms and provisions of the **AGREEMENT** remain unchanged and in full force and effect.

Now, therefore, in consideration of the mutual promises contained herein, **HARRIS** and **SUBSCRIBER** hereby agree as follows:

1. A new **Schedule B** as set forth below in this Amendment No. 1 is added to the **AGREEMENT**.
2. In the event of any conflict or inconsistency in the terms of the **AGREEMENT** or this Amendment No. 1, this Amendment No. 1 shall govern.
3. **Full Force and Effect** - Except for the terms and provisions of the **AGREEMENT** modified in this Amendment No. 1, all other terms and provisions of the **AGREEMENT** remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 to the Memorandum of Agreement as of the dates set forth below.

For HARRIS CANADA SYSTEMS INC.

For THE CORPORATION OF THE CITY OF LONDON

\_\_\_\_\_

\_\_\_\_\_

Name:

Name: .....

Title:

Title: .....

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

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

\_\_\_\_\_

\_\_\_\_\_

Name:

Name: .....

Title:

Title: .....

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

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

**SCHEDULE B  
SOFTWARE FX AGREEMENT**

1. **Term** : The terms and conditions of this Schedule B will become effective as of the date of implementation and beneficial use of the System Upgrade (estimated to be on or before June 1, 2016) and continue for a period of five (5) years unless terminated earlier as provided for in Section 7 of the **AGREEMENT**. In the event of any conflict or inconsistency in the terms of the **AGREEMENT** or this Schedule B, this Schedule B shall govern.

2. **Designated System.**

The Designated System(s) for which the **AGREEMENT** will apply is (are):

System Name	System Classification	System Location
<u>London P25 Voice Radio Communication System purchased under purchase order 142525 OP</u>	<u>Configuration as of June 1, 2016</u>	<u>City of London, Ontario Canada</u>

3. **Definitions:** The following definitions are given:

- A. **“Software” Updates** includes SUMS Software updates.
- B. **“IAVA” Information Assurance Vulnerability Alert.** An IAVA is an announcement of a computer application software or operating system vulnerability notification in the form of alerts, bulletins, and technical advisories identified by DoD-CERT, a division of the United States Cyber Command.
- C. **“PVA Evaluation”** means the Seller’s process for evaluation of a potential Product Vulnerability Alert affecting products provided by the Seller.
- D. **“RCE”** means Harris’s Regional Centers of Excellence. RCEs are Harris master distributors of all Harris land mobile radio products and services.
- E. **“Security Updates”** means software updates that mitigate, address and/or resolve product security vulnerabilities in system components offered by the Seller. These updates may include Vendor Patches and/or Vendor Work-Arounds.
- F. **“Security Update Distribution”** means the Seller providing Security Updates to which the Subscriber is entitled under the terms of this Agreement, affecting components of the Subscriber’s Designated System as defined in Exhibit A.
- G. **“STIG”** means Security Technical Implementation Guide. A STIG is a methodology for standardized secure installation and maintenance of computer software and hardware
- H. **“SUMS”** means Harris’s Security Update Management Service. Harris’s automated patch management system that provides periodic, security-related software updates.
- I. **“SUMS Software Updates”** means periodic, security-related software, including but not limited to, operating system updates, antivirus signatures, and other security related Windows-based 3rd party updates (Adobe, Java, Flash).
- J. **“Tech-Link”** is the technical information section of Harris’s web site. Access is restricted to authorized subscribers via user ID and password login.
- K. T. **“Third Party Software Products”** means software owned by a party other than Harris Corporation.
- L. U. **“Vendor Patches”** means software updates provided by third-party software vendors that mitigate, address and/or resolve PVA(s).
- M. V. **“Vendor Work-Arounds”** means configuration and/or procedural changes provided by third-party software vendors that mitigate, address and/or resolve PVA(s).

4. **Section 3 – Description of Software FX Program Features:** To Section 3 of the **AGREEMENT** the following modifications are made:

A. To Subsection C: **Services Included:** The following services are added:

v. Software Update Installation. Installation of infrastructure Software Updates by Seller are included during the Term provided that Subscriber is in compliance with the terms and conditions of this Agreement. This includes installation of a Symphony Software update anticipated to be implemented on or before year 4 of the term of this Amendment No. 1.

vi. Training: Seller shall provide the following on-site training (est in calendar year 2017):

- Quantity 1 Network Operation and Maintenance Training Course for up to Ten Participants.
- Quantity 1 BeOn Administration Training Course for up to 10 participants

B. To Subsection D. **Services Not Included:** Subsection Dii is deleted in its entirety.

C. Subsection E is added as follows:

**Security Update Management Service:** The following is added:

1. Security Update Distributions 2.0. Subject to the conditions of this Agreement, Seller will provide periodic Security Updates described below during the term of this Agreement. All Security Updates shall be provided to Subscriber's contact designated in Exhibit A. Security Updates shall contain software necessary for the Subscriber to fully implement the Security Update within the Designated System and at least one set of Software release notes detailing the contents of the Security Updates and providing installation instructions.

a. Security Updates Upon Enrollment. Seller shall provide to Subscriber the Security Updates 2.0 to bring the Licensed Programs within Subscriber's Designated System up to Seller's current security software release level. Such updates will be provided at no additional cost to Subscriber provided Subscriber has enrolled in this Software FX program covered by this Amendment No. 1 by December 1, 2015.

2. Subsequent Security Updates. During the term of this Agreement and subject to Subscriber's performance of its obligations, Seller shall provide to Subscriber Security Updates that may include Vendor Patches and/or Vendor Work-Arounds, enhancements, corrections and/or changes, made by third-party software vendors to software included in Seller provided products subject to the Subscriber's right to receive the third-party software. The Subscriber may be required to have currently executed services/support Agreement(s) with third-party vendor(s) separate from this Agreement.

3. Software Releases Not Included. The following software releases are not included within the terms of this Agreement:

a. New Products. Any Software products released by Harris for which an earlier generation or release level is not already contained within Subscriber's Designated System. If Subscriber wishes to implement such Software products within its Designated System, it will need to license such products at the fees then in effect and purchase any necessary compatible hardware for operation of such Software.

b. Third Party Software. To the extent that such Third Party Software Products are available and compatible with the Designated System, Harris reserves the right to charge an additional fee for upgrades to software programs that are licensed by a third party for use with the Harris system yet are not the property of Harris. The Subscriber may be required to have currently executed services/support Agreement(s) with third-party vendor(s) separate from this

Agreement. Subscriber must provide evidence of a current services/support Agreement at the seller's request.

D. Subsection F is added as follows:

**SUMS PRODUCT Features Summary.**

1. The Seller will use reasonable efforts to monitor pertinent governmental, vendor, independent and open source databases for PVAs, IAVAs, STIGs and for any subsequent resolutions that affect products provided by the Seller that are part of the Subscriber's Designated System.

2. The Seller will make every reasonable effort to verify that the PVA, IAVA, and STIG resolutions, Vendor Patches and/or Vendor Work-Arounds, do not adversely affect the Seller's stated performance of the Subscriber's Designated System.

3. The Seller will provide Security Update Distributions to the Subscriber at periodic intervals targeting bi-monthly releases. The interval shall be determined solely by the Seller. More frequent Security Update Distributions may be required to address urgent product security vulnerabilities. Security Update Distributions on other than a bi-monthly basis do not constitute a contractual default by the Seller.

4. The Seller will provide Security Update Distributions in a means suitable for use on the target devices of the Subscriber's Designated System. Optional On-Site Support Services may be contracted by the Subscriber, outside of this Agreement, through the Seller or the Seller's RCE or Network Solutions Provider or designated local service provider as set forth in Section 6.A.iv.

5. Prior to the general release by Seller of any Security Updates, Seller shall make available a SUMS PRODUCT release document announcing the impending release, and detailing its contents and impact, if any, on any other Seller hardware or Software components. Subscriber acknowledges that older hardware may not have sufficient capacity for the operation of the Software Updates. NOTHING IN THIS AGREEMENT OR OTHERWISE REQUIRES SELLER EITHER TO DESIGN UPDATES THAT REMAIN COMPATIBLE WITH DESIGNATED SYSTEM HARDWARE OR TO PROVIDE ADDITIONAL HARDWARE UNDER THIS AGREEMENT.

6. The Seller will provide with each Security Update Distribution a Security Release Notes document. This document will detail the PVA resolutions and/or mitigation addressed by this release, installation and installation recovery procedures and software and hardware compatibility information where applicable.

7. Automated Security Update Distribution Services. The Seller will provide a means of automating the distribution of Security Updates to the target devices within the Subscriber's Designated System. Subscriber shall be responsible for providing the necessary hardware and licenses to run the automated distribution of Security Updates. This hardware shall be part of Subscriber's Designated Harris System or purchased at Subscriber's expense from Seller prior to the initialization of this Software FX Agreement. As set forth in Section 9.C. of this Agreement, it shall be the Subscriber's responsibility to complete the security update process on the target devices (e.g. rebooting the target devices) following the Patch Application instructions in the Release Notes accompanying each Security Update Distribution. Optional On-Site Support Services may be contracted by the Subscriber, outside of this Agreement, through the Seller or the Seller's RCE or Network Solutions Provider or designated local service provider as set forth in Section 6.A.iv.

8. Assessment Reporting. For those PVAs monitored by the Seller as stated in Section 4.B.h. , the Seller will provide responses assessing the affects of the monitored PVAs on the LMR system and stating Seller's recommendations for required actions. Access to the PVA assessments will be granted through Tech-Link, a restricted web site maintained by the Seller. The Seller does not

guarantee assessment response time, but will make reasonable efforts to provide timely assessment responses.

**5. Pricing and Payment**

The Price for the 5 Year Life Cycle Plan is an additional CAD \$710,833.63, exclusive of taxes. Subject to Section 5 of the **AGREEMENT**, annual fees are due and payable as follows:

Term	June 01/2016 to May 31/2017	June 01/2017 to May 31/2018	June 01/2018 to May 31/2019	June 01/2019 to May 31/2020	June 01/2020 to May 31/2021
			Included		
Annual Subscription Fees :	\$ 18,147.60	\$ 128,073.50	\$ 282,022.95	\$ 138,524.30	\$ 144,065.27
				Total :	\$ 710,833.63