



VoiceWatch UC Managed Services

Agreement

This *VoiceWatch UC* agreement made this 22nd day of January, 2020 (the "Effective Date"), by and between CMS IP Technologies/LivCom (collectively "Company"), and The County of Polk, Texas - Sheriff's Office("Customer").

The Term of this contract shall be for 36 months. A contract shall automatically renew for successive terms of one year with possible new rates unless the party terminating this contract gives at least 60 days' prior written notice. Early termination of this contract will result in customer payout of the remainder of the contract at the time of termination. Any unpaid Non-Recurring Fees and/or Equipment Charges shall also be paid upon termination. As part of this agreement the customer acknowledges that Company has certain limitations of liability and customer agrees to the terms and conditions specified on the Company web site.

The quoted costs may be revised if: a) Customer desires the work carried out more urgently than agreed, or b) Customer changes the Specification, or c) Customer premises are in some way unsuitable for the equipment and this was not apparent from our original survey or there are circumstances about which we should have been made aware, or d) there are any other special circumstances we were not aware of when supplying our original quotation. Unless previously negotiated, all telephone line and/or data line installation, monthly fee and call charges are the responsibility of the Customer.

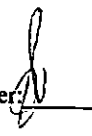

Any equipment provided by Company to Customer as part of this agreement which is not sold to the Customer, shall remain the property of Company and will be maintained and/or replaced at the Company discretion and expense. Customer agrees to take reasonable care of installed equipment. Maintenance and service work is normally carried out during usual working hours of 8:00am to 5:00pm Monday to Friday except statutory holidays. Requests made by the Customer to install or service equipment outside these hours may incur additional charges.

Customer agrees that Company's internal measurements establish the definition of the acceptable working order of the system.

1. Definitions.

1.1. **Managed Services** ("Managed Services") are defined as hardware support, application and operating system support, system and application availability monitoring, configuration backup monitoring, and hardware firmware updates for all telephone system processors and telephones.

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1.2. Services ("Services") are defined as telephone system availability and supported application availability (as defined in section 1.9).

1.3. Help Desk ("Help Desk") is defined as technical support for all end-user technical issues, such as use of voicemail, telephone usage, functional problems. Company will maintain a technical staff between the hours of 8am to 5pm Monday through Friday, excluding holidays as defined in section 1.5.

1.4. Telecom Provider ("Telecom Provider") is defined as the company or entity that provides telecom access to the rest of the world through the use of analog telephone lines, PRI access telephone lines or VoIP telephone lines.

1.5. Company Hours ("Company Hours") Company will be available to respond to Customer requests between the hours of 8am to 5pm Monday through Friday under the guidelines of this agreement.

1.6. After Hours Service ("After Hours Service") is defined as any time outside the hours of 8am and 5pm Monday through Friday excluding Holidays. Service will be available outside these hours at an additional charge to the Customer.

1.7. Scheduled Service Downtime ("Scheduled Service Downtime") is any scheduled interruption of Managed Services. Scheduled Service Downtime occurs during Company standard server maintenance window and/or a 24 hour notice to the Customer via e-mail.

1.8. Response Time ("Response Time") Response time is defined as the time from the report of a service outage until the the time that Company is working on a resolution of the problem. This does not mean the time that an engineer will be onsite.

1.9. Service Monitoring is the method by which the Company determines the availability of Customer applications, servers, and network devices.

1.10. Supported Applications Company will only be responsible for providing support on applications provided as part of the UC operating system unless otherwise specified under this agreement

1.11 Moves, Adds, and Changes (MACs). All *system level* configuration changes that can be performed remotely from the Company Network Operations Center will be performed at no additional charges to Customer. If any configuration change requires an onsite visit to complete then additional charges will apply.

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1.11.1 All physical hardware MAC's will require an onsite visit and additional charges will apply.

1.11.2 All extension level MAC's will require an onsite visit and additional charges will apply.

1.11.3 All multi-extension configuration changes regardless of whether they are performed onsite or remote are not covered under this agreement and will require additional charges.

2. Onsite Response and Remote Support. In the event of a service interruption Company will determine, in its sole discretion, whether the issue requires an engineer to be dispatched onsite or whether the issue can be resolved remotely.

2.1 If Company determines that the issue can be resolved remotely the Customer may request the engineer to come onsite at an additional charge.

2.2 In the event of a non-covered billable move, add, or change the Customer may request the work to be done onsite or remote. If the the work **REQUIRES** the engineer to be onsite to accomplish the task the Customer will be notified prior to arriving onsite.

3. Customer Responsibilities. Unless the below services are contracted through Company and referred to in this agreement, Customer is responsible for performing certain duties under this Service Level Agreement. Failure to comply with any of the following:

3.1. Appropriate cabling to all systems, telephones, and devices.

3.2. A functional remote connection to the system via VPN or other approved secure connection.

3.3. Appropriate air conditioning for all systems and hardware.

3.4 Power surge protection for all systems and hardware.

3.5 Licensed copies of all software with current valid support agreements (if applicable).

3.6 Appropriate local and wide area network bandwidth for communicating systems, telephones, and devices to function properly within industry acceptable response times.

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4. Excused Performance. Though Company will do everything reasonably within its power to resolve any and all issues with the covered system on behalf of the Customer, the Performance Guidelines and expectations set forth under this Agreement for Company are excused under the following conditions and referred to in this agreement and may, under Company's sole discretion, incur additional charges to the Customer:

4.1. Unauthorized changes or repairs by the Customer or other service entity to any applications or systems supported by Company under this Agreement.

4.2. Acts of God including fire, flood, lightning damage, electrical outages, or power surges.

4.4 Application bugs released by operating system or application vendors.

4.5 Any Scheduled Service Downtime as defined in Section 1.7

4.6 Unavailability of parts or materials from suppliers

4.7 Faulty cabling not installed by Company

4.8 Poorly performing Local Area Network

5. Payment Terms

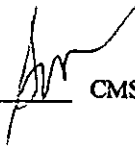

5.1 Upon authorizing this agreement, the Customer will provide a payment for the Setup, Installation, or other one-time Charges. All payments should be made to **CMS IP Technologies**.

5.2 Company will invoice the Customer monthly **30 days** prior to the due date for the next month's service.

5.3 Company will invoice the Customer separately for any additional services and projects. All projects require the purchase of a block of support units (BOU) to cover the estimated time required to complete the project. Full payment of the BOU is required prior to commencing work. Any hours remaining on the block after the completion of the project can be used by the Customer at its sole discretion.

5.4 All payments not received within **30 days** after the date of invoice will be subject to a late penalty of **1.5%** of the invoice per month, or the maximum rate allowed by law from the date of invoice, until paid.

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5.5 If Company contracts with a collection agency to collect overdue invoices from the Customer under this Service Agreement, the Customer shall be responsible for and agrees to pay all collection costs.

6. Authorization. The Customer acknowledges that the person signing this agreement on its behalf is authorized to do so and may bind the Customer to all of the terms and conditions contained herein, and represents and warrants that such person is acting within the scope of his or her authority as an officer, director, or duly authorized agent or employee of the Customer.

7. Rates - See Attachment A - Service Pricing Proposal

7.1 Special BOU Rate – Customer current discounted BOU rate will remain in affect for the length of the agreement and will not be subjected to increase for the duration onf the agreement.

7.2 Project Services Rate. The rate for project services for this agreement will be provided to the Customer at a standard rate based upon the number of support units purchased according to the then current CMS BOU pricing. This time can only be purchased in BOUs. For every 1/4 hour of service performed Monday through Friday during normal business hours, 1/4 hour will be deducted form the current BOU. This standard rate will apply for all services that are not part of the scheduled Support Services whether they are provided on-site, remotely, or by telephone. Services will not be performed without prior verbal or written approval of Customer.

7.2.1 Overtime Project Services Rate. Any work performed for the Customer before or after normal business hours (“24/7 Support”), including weekends and Holidays will be deducted from the BOU at 1.5 x the amount of time actually spent. This rate will include travel time to and from the Customer location.

7.3 Company reserves the right to increase its Service Rates with 30 days advance notice to go into affect at the end of the existing agreement period.

8. Security. Company will utilize best practices to secure Customer’s UC as well as monitor for unauthorized access. If Company discovers that the UC has been compromised, Company will immediately notify the Customer within 24 hours of such discovery but in no way will Company be responsible for any unauthorized access, system compromise, or information compromise.

10. Configuration Backup . Company shall maintain backups of all system configurations and though Company will do everything reasonable and customerary to protect the

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integrity of those backups in no way will Company be responsible for the integrity, accuracy or validity of those backup.

10.1 In the event of a backup restore failure Company will attempt to rebuild the configuration of the system manually at Company's sole expense during normal business hours but in no way can Company guarantee that the final configuration will be an exact duplicate of the configuration prior to the system failure nor can Company guarantee the timeframe in which it will take to complete the manual rebuild.

12. **Reimbursement for parts and supplies.** From time to time, Company may need to purchase supplies and materials to provide services to the Customer that are not covered under this agreement. The Customer agrees to reimburse Company for all such expenses incurred under this Agreement. Purchases will not be made without the prior written approval from the Customer.

13. **Software Licensing.** The Customer warrants that all software it provides to Company for installation, configuration or use in any way has been legally obtained and is properly licensed. The Customer further warrants that it has legally purchased a sufficient number of licenses of all software and that it has not violated any laws obtaining the software. Company has no knowledge regarding licensing of software provided to it by the Customer. The Customer indemnifies Company for any installation, configuration or use of such software. The Customer understands and acknowledges that it shall be solely responsible and liable for all licensing and purchasing of software.

14. **Assignment.** Neither party shall assign this agreement without the prior written consent of the other.

15. **LIMITATIONS OF LIABILITY.** PROVIDER DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR ARISING FROM A COURSE OF DEALING OR PERFORMANCE OR CUSTOM, WITH RESPECT TO THE SERVICES, EQUIPMENT, AND ANY OTHER PROVIDER PRODUCTS, SERVICES OR EQUIPMENT PROVIDED HEREUNDER, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE IN A WORKMAN-LIKE MANNER, COMPLIANCE WITH LAWS, QUALITY, ACCURACY, COMPLETENESS OR CURRENCY OF INFORMATION, SYSTEM INTEGRABILITY, TITLE, QUIET ENJOYMENT AND NON-INFRINGEMENT. PROVIDER DOES NOT REPRESENT, WARRANT OR COVENANT THAT THE PRODUCTS, SERVICES OR EQUIPMENT PROVIDED WILL OPERATE UNINTERRUPTED, ERROR FREE OR WITHOUT DEGRADATION OR LOSS OF DATA, OR BE SECURE. NEITHER PROVIDER NOR ITS SERVICE PROVIDERS WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO OR ALTERATION, THEFT OR DESTRUCTION OF CUSTOMER'S OR A USER'S DATA FILES, PROGRAMS, PROCEDURES OR INFORMATION, INCLUDING, WITHOUT LIMITATION, ANY SUCH DATA IN PROVIDER'S POSSESSION,

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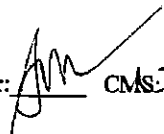

CUSTODY OR CONTROL, THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES, OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF PROVIDER'S OR ITS SERVICE PROVIDER'S NEGLIGENCE. IN NO EVENT WILL PROVIDER OR ITS AFFILIATE, SERVICE PROVIDER, FACILITY OPERATOR OR CARRIER, OR THEIR RESPECTIVE OWNERS, DIRECTORS, MANAGERS, OFFICERS, EMPLOYEES OR AGENTS (COLLECTIVELY, "PROVIDER PARTIES") BE LIABLE FOR ANY DIRECT, ACTUAL, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE OR OTHER DAMAGES, OR FOR ANY COST OF COVER OR LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER, ARISING FROM OR RELATED TO THIS AGREEMENT OR A PROVIDER PARTY'S PERFORMANCE OR NONPERFORMANCE OF OBLIGATIONS HEREUNDER, A FAILURE OF OR A DEFECT IN THE SERVICES, EQUIPMENT OR ANY PRODUCT, A PROVIDER PARTY'S VIOLATION OF A THIRD PARTY'S RIGHT, OR A PROVIDER PARTY'S ACTS OR OMISSIONS. PROVIDER WILL NOT BE LIABLE FOR THE ACTS OR OMISSIONS OF, A FAILURE OF OR A DEFECT IN ANY PRODUCT OR SERVICE PROVIDED BY, OR VIOLATION OF ANY THIRD PARTY'S RIGHTS BY ANY THIRD-PARTY SERVICE PROVIDER, FACILITY OPERATOR OR CARRIER. THE PROVIDER PARTIES' MAXIMUM TOTAL LIABILITY TO CUSTOMER WILL NOT EXCEED THE AMOUNTS PAID BY CUSTOMER TO PROVIDER IN THE THREE (3) MONTHS PRECEDING THE DATE THE CLAIM ACCRUED. THE PROVIDER PARTIES WILL NOT BE LIABLE IN ANY WAY TO ANY USER.

17. Place of Work. Company's personnel will perform some work for Customer at the Customer premises in a suitable location designated by Customer in its sole discretion. While at Customer's premises, Company and Company personnel shall (a) comply with the requests, rules and regulations of Customer regarding safety and health, personal and professional conduct (including adhering to general safety practices or procedures) generally applicable to such Customer premises and (b) otherwise conduct themselves in a businesslike manner.

18. Non-Solicitation. Company has an investment in its employees that deliver Services to the Customer under this Agreement and those employees are subject to Company's supervision. In consideration of this, the Customer agrees not to solicit, hire, employ, retain, or contract with any employee of the other without first receiving Company's written consent. If any employee terminates his or her employment with Company (regardless of the reason for termination), and is employed by the Customer (or any affiliate, subsidiary of the Customer) in any capacity either during or within a 6 month period, the Customer shall immediately pay Company an amount equal to 50% of the then current yearly salary or wage paid by Company to such employee.

20. Entire Agreement. This Agreement contains the entire agreement between the parties regarding the subject matter herein, and supersedes any prior agreements or representations, whether oral or written. No agreement, representation or

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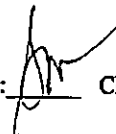



understanding not specifically contained herein shall be binding, unless reduced to writing and signed by Company, and the Customer.

21. Attorneys Fees & Costs. In any action involving the enforcement or interpretation of this Agreement, the prevailing party, whether the Customer or Company, shall be entitled to its reasonable attorneys' fees and costs, including such fees and costs incurred in connection with any appeals, in addition to such other relief as may be provided by law.

22. Arbitration & Governing Law. Any controversies arising out of or relating to this Agreement or the interpretation, performance or breach thereof shall be settled by binding arbitration in Jefferson County, Texas. Judgment upon any award rendered by the arbitrator(s) may be entered and enforced in any court having jurisdiction. Texas law shall govern the construction, validity, and interpretation of this Agreement and the performance of its obligations.

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Acceptance

I, the undersigned Customer, accept and agree to the items and terms in this VoiceWatch UC Agreement and Rates as included on Attachment A. The contract term and monthly recurring charges begin on the date equipment is delivered to Customer's site and/or services are activated (Service Activation Date).

Company

[Signature]
Authorized Signature

Kim Brown
Print Name

SR Account Manager
Title

1-22-2020
Date

Customer

[Signature]
Authorized Signature

Sydney Murphy
Print Name

Polk County Judge
Title

01/28/2020
Effective Dates of Agreement

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