

**RESOLUTION 2017-18
A STANDARD AGREEMENT FOR VOICE SERVICES**

BE IT RESOLVED by the Town Council of the Town of Trinity, Alabama that the Mayor be and is hereby authorized to enter into a contract agreement with Integrated Communication Solutions, Inc. for voice services.

ADOPTED AND APPROVED THIS 14TH DAY OF AUGUST, 2017.



Mayor Vaughn Goodwin

ATTEST:



Barbara L. Jones, Town Clerk

Barbara L. Jones
Notary Public, AL State at Large
My Commission Expires April 12, 2021



Town Of Trinity Alabama
ICS Hosted Voice Service

Prepared for:
Town of Trinity Alabama
35 Preston Drive
Trinity, Alabama 35051
United States

Date: August 2, 2017

Prepared by:
ICS Corporation
Darrell Reaves
7008 Champion Blvd
Birmingham, AL 35242
United States

Call US
205-423-6940

Email US
ICSales@ipdvv.com

Web Site
www.ipdvv.com



Customer: Town of Trinity Alabama
35 Preston Drive
Trinity, Alabama 35051

Effective Date: Upon Cutover

Integrated Communication Solutions, Inc. Voice Service Agreement

Integrated Communication Solutions, Inc. ("ICS") and you, the Customer, agree that the following terms and conditions will apply to the ICS Voice Services ("Services") provided for the products set forth on the attached equipment list. This agreement may contain additional pages and only covers Services provided in the United States.

1. **CONTRACT PERIOD** - This Agreement will become effective when signed by you and accepted in writing by an Authorized agent of ICS. Post Warranty services will be for an initial term of one (1) year and will be automatically renewed for successive one (1) month terms at the charges and on the terms and conditions of ICS in effect at the time, unless either party gives the other written notice of its intent not to renew at least thirty (30) days prior to the expiration of any initial renewal term.
2. **INSTALLATION** - ICS will install the products by the Installation Date mutually agreed upon. If no Installation Date is shown, you agree that ICS will schedule the Installation Date based on its normal intervals. You agree to pay any additional charges for (i) Services performed at your request outside of ICS's standard practices, and (ii) costs incurred by ICS as a result of delays for reasons attributable to you or your contractors or communications carriers.
3. **CUSTOMER RESPONSIBILITIES**- You agree to (i) provide the proper environment, electrical and telecommunications connections, (ii) provide access and work space, and (iii) maintain a procedure external to the software program(s) and host computer for reconstruction of loss or altered files, data or programs. You are responsible for removal of any hazardous material (e. g., asbestos) or correction of any hazardous condition that affects ICS's performance of Services. Services will be delayed until you remove or correct the hazardous condition; ICS shall not be liable to you as a result of such delays.
4. **WIRING** -You may purchase wiring from ICS on a flat rate or "Time and Materials" charge basis.
5. **HARDWARE MAINTENANCE & Services** - ICS will provide Services during the Contract Period in accordance with ICS's standard specifications subject to the exclusions set forth in Section 6. ICS provides various maintenance Services dependent upon the product and option selected by Customer and indicated below. Repair parts or replacement equipment may be new, remanufactured or refurbished at the discretion of ICS. The removed equipment or parts is the property of ICS. B. You may report problems 24 hours a day, 7 days a week by email or phone to a ICS Service Center, 205-423-6940. ICS is only obligated to provide maintenance service from 8AM to 5PM CST Monday thru Friday. ICS is not obligated to provide maintenance service on federally observed holidays.
6. **SERVICE EXCLUSIONS**- A. ICS, ITS SUBSIDIARIES AND THEIR AFFILIATES, SUBCONTRACTORS AND SUPPLIERS, MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
B. The Agreement does not cover repair for damages or malfunctions caused by: (1) actions of non-ICS personnel or attachment to the Products of non-ICS installed equipment or software; (2) your failure to follow ICS's installation, operation or maintenance instructions, including your failure to permit ICS timely remote access to your Product; (3) failure of products not serviced by ICS; (4) abuse, misuse or negligent acts of non-ICS personnel; or (5) force majeure conditions as stated in Section 13. In addition, ICS is not obligated to Service if you modify the Product(s). C. You agree to notify ICS prior to moving a Product. Additional charges may apply if ICS incurs additional costs in providing Service as a result of a move of a Product.
7. **PRICE AND PAYMENT**- You agrees to pay the charges set forth in this Agreement to the invoicing party. Payment is due thirty (15) days from the date of invoice. You will pay the full amount due on the invoice notwithstanding restrictive endorsements or other statements on or accompanying accepted checks. You agree to reimburse ICS for any costs associated with collecting delinquent payments. Late fees may apply.
8. **TAXES**- You agree to pay taxes, however designated (excluding taxes on ICS's net income) imposed or based upon the provision of Services unless a tax exemption certificate is provided.
9. **OWNERSHIP/ LICENSEE**- You warrant that you are (i) the owner of any equipment covered by this Agreement or that you have the product owner's authorization to enter into this Agreement and/ or (ii) the Licensee of the software programs covered by this Agreement.
10. **EXCLUSIVE REMEDIES AND LIMITATIONS OF LIABILITY**- A. THE ENTIRE LIABILITY OF ICS AND ITS SUBSIDIARIES, AFFILIATES AND SUBCONTRACTS, (AND THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUBCONTRACTORS, AND SUPPLIERS) AND YOUR EXCLUSIVE REMEDIES FOR ANY DAMAGES ARISING FROM THE PERFORMANCE OF ANY WORK OR SERVICE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE,

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SHALL BE: (1) FOR DELAYS IN THE INSTALLATION DATE, ICS SHALL HAVE NO LIABILITY UNLESS THE INSTALLATION DATE IS DELAYED BY MORE THAN THIRTY (30) DAYS BY CAUSES NOT ATTRIBUTABLE TO EITHER YOU OR FORCE MAJEURE CONDITIONS, IN WHICH CASE YOUR SOLE REMEDY SHALL BE TO CANCEL THIS AGREEMENT WITHOUT INCURRING CANCELLATION CHARGES; (2) FOR ICS'S FAILURE TO PERFORM ANY OTHER MATERIAL TERM OF THIS AGREEMENT (E. G., ICS'S POST WARRANTY SERVICE OBLIGATIONS), YOUR SOLE REMEDY SHALL BE TO CANCEL THIS AGREEMENT WITHOUT INCURRING CANCELLATION CHARGES IF ICS FAILS TO CORRECT SUCH FAILURE WITHIN THIRTY (30) DAYS OF RECEIPT OF YOUR WRITTEN NOTICE; (3) FOR DAMAGES TO REAL OR TANGIBLE PERSONAL PROPERTY OR FOR BODILY INJURY OR DEATH TO ANY PERSON FOR WHICH ICS'S SOLE NEGLIGENCE WAS THE PROXIMATE CAUSE, YOUR RIGHT TO PROVEN DAMAGES TO PROPERTY OR PERSON; AND (4) FOR CLAIMS OTHER THAN SET FORTH ABOVE, ICS'S LIABILITY SHALL BE LIMITED TO PROVEN DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED \$100,000. B. EXCEPT TO THE EXTENT PROVIDED IN SUBSECTION 10. A.(3), ICS SHALL NOT BE LIABLE FOR THE FOLLOWING TYPES OF DAMAGES: (1) INCIDENTAL DAMAGES, (2) SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO: LOST PROFITS, SAVINGS OR REVENUES OF ANY KIND. ICS SHALL NOT BE LIABLE FOR THE TYPES OF DAMAGES ENUMERATED ABOVE WHETHER OR NOT ICS HAS BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES. THIS PARAGRAPH SHALL SURVIVE THE FAILURE OF ANY EXCLUSIVE REMEDY.

11. CANCELLATION/TERMINATION- A. You will be in default of this Agreement and ICS may terminate this Agreement if you fail to pay any charge when due or fails to perform or observe any material term or condition of this Agreement, if such failure shall continue unremedied for thirty (30) days after receipt of written notice thereof from ICS. B. If you cancel this agreement after installation has begun, you will pay any incurred installation charges to the cancellation date.

C. After commencement of post warranty service, you may terminate service coverage upon thirty (30) days written notice and: (i) payment of a termination charge equal to fifty percent (50%) of the total charges or fifty percent (50%) of the charges for the remaining term, whichever is less.

12. DISPUTES- A. Any controversy or claim, whether based on contract, tort, strict liability, fraud, misrepresentation, or any other legal theory, related directly or indirectly to this Agreement ("Dispute") shall be resolved solely in accordance with the terms of this Section 12.

B. If the Dispute cannot be settled by good faith negotiation between the parties, ICS and you will submit the Dispute to non-binding mediation. If complete agreement cannot be reached within thirty (30) days of submission to mediation, any remaining issues will be resolved by binding arbitration in accordance with Sections 12.C and 12.D except that ICS reserves the right to obtain an injunction in court to prevent your use of the Products in violation of this Agreement. The Federal Arbitration Act, 9 U.S.C. Section 1 to 15, not state law, will govern the arbitrability of all Disputes.

C. A single arbitrator who is knowledgeable in the telecommunications field or in commercial matters will conduct the arbitration. The arbitrator's decision and award will be final and binding and may be entered in any court with jurisdiction. The arbitrator will not have authority to modify or expand any of the provisions of this Agreement (e.g., Section 10 - The Exclusive Remedies and limitation of liability provision of this Agreement). D. Any mediation or arbitration commenced pursuant to this Agreement will be conducted under the then current rules of the alternate dispute resolution (ADR) firm selected by the parties. If the parties are unable to agree on an ADR firm, the parties will conduct the mediation and, if necessary, the arbitration under the then current rules and supervision of the American Arbitration Association (AAA). ICS and you will each bear its own attorneys' fees associated with the mediation and, if necessary, the arbitration. ICS and you will pay all other costs and expenses of the mediation/arbitration as the rules of the selected ADR firm provide.

E. Any Dispute you have against ICS with respect to this Agreement must be brought in accordance with this Section 12. within one (1) year after the cause of action arises.

13. FORCE MAJEURE - ICS shall have no liability for delays, failure in performance or damages due to: fire, explosion, pest damage, power failures, strikes or labor disputes, water, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages, acts or omissions of communications carriers, unauthorized use of the Products, or other causes beyond ICS's control whether or not similar to the foregoing.

14. ASSIGNMENT- Neither party may assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonable withheld; except that ICS may assign this Agreement to a present or future affiliate, subsidiary, or assign its right to receive payment without your consent.

15. SUBCONTRACTING- ICS may subcontract work to be performed under this Agreement, but shall retain responsibility for the work.

16. GENERAL -A. Any supplement, modification or waiver of any provision of this Agreement must be in writing and signed by authorized representatives of both parties.

B. If either party fails to enforce any right or remedy available under this Agreement, that failure shall not be construed as a waiver of any right or remedy with respect to any other breach or failure by the other party.

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C. You certify that the Products acquired hereunder are intended for your use in the ordinary course of your business and not for the purpose of resale. You also certify that the Products provided hereunder are for commercial use and are not primarily to personal, family or household use.

D. This Agreement will be governed by the local laws (as opposed to the conflict of law provisions) of the State of Alabama.

THIS IS THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE PRODUCTS AND SERVICES PROVIDED HEREUNDER AND SUPERSEDES ALL PRIOR AGREEMENTS, PROPOSALS OR UNDERSTANDINGS, WHETHER WRITTEN OR ORAL.

ICS VOICE SERVICE OPTIONS:

City Hall

4 Host PBX service with voicemail on new Yealink T42G telephone sets

4 Unlimited local and long distance anywhere in US

Charter 60M/5M internet

1 Fax line for standard fax machine

4 Web Faxing accounts unlimited desktop faxing

1 Auto Attendant with ACD and call queuing

1 Conference Bridge with 200 min

ICS installation and service support

Police Department

7 Host PBX service with voicemail on new Yealink T42G telephone sets

7 Unlimited local and long distance anywhere in US

1 Fax line for standard fax machine

7 Web Faxing accounts unlimited desktop faxing

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Total Monthly **\$525 per month** **Plus taxes and fees**
Set up fee **\$265 one time**

ICS support- Full service support on ICS provided phone service, network and /or ICS provided Internet provider. Network issues on networks not provided by ICS will be identified and passed on to customer's network provider. ANY telephone issues customer is to call, email, or web portal access to ICS Help Desk for service.

Remote system changes are provided at no additional charge. On site changes requiring a tech to come on site will be charged at time and material. Time charged at \$90 per hour. All maintenance issues are covered as part of this agreement.

Note: ICS installed or certified data networks must remain totally under ICS control with no administration changes made except by qualified ICS personnel. If network becomes uncertified then all work performed will be charged as time and material at the ICS standard rate.

For ICS	Customer
Signature	Signature <i>Vaughn Godwin</i>
Printed Name Darrell Reaves	Printed Name Vaughn Godwin
Title President	Title Mayor
Date	Date 8/15/2017

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