

STATE OF TEXAS
COUNTY OF WALLER

AGREEMENT BETWEEN WALLER COUNTY, TEXAS AND ICS, INC FOR PHONE SERVICES FOR THE BROOKSHIRE-PATTISON LIBRARY

This Agreement for phone services and related goods for the Brookshire-Pattison Library (“Agreement”) is entered into on the date of the last signature affixed hereto (“Effective Date”) by and between Waller County, Texas (“County”), a political subdivision of the State of Texas, and Innovative Communication Systems, Inc. (“Contractor” or “ICS, Inc.”), a Texas corporation, with its principal place of business at 10430 Gulfdale St., San Antonio, Texas 78216 (each referred to individually as “Party” and collectively as “Parties”).

WHEREAS, County desires to enter into a contract for phone services and related goods for the Brookshire-Pattison Library pursuant to applicable state laws and regulations;

WHEREAS, Contractor provides phone services and related goods;

WHEREAS, the County and Contractor have the intent to comply with all applicable laws relative to performance of this Agreement; and

WEHREAS, the County and Contractor desire to enter into this Agreement to clarify and make explicit the rights, duties, and responsibilities between the Parties;

NOW, THEREFORE, the Parties agree that the foregoing is true and correct, and further agree as follows:

SECTION 1. AGREEMENT

- 1.1 Services to be Provided: The Contractor shall provide equipment, carrier services, end user training, and ongoing hardware maintenance to the Waller County Brookshire-Pattison Library as provided in the Contractor’s proposal (“Proposal”) attached hereto as Exhibit A. The goal of this Agreement is to ensure the efficient and effective installation and implementation of the equipment and related services contained in the attached Proposal in order to meet the operational needs of the County. Contractor shall perform the services in accordance with this Agreement.
- 1.2 Contract Documents: The following documents constitute the “Contract Documents”:
 - a. This Agreement;
 - b. The Proposal, attached hereto as Exhibit A.

All of the documents referred to in this Section 1.2 are incorporated by reference and made a part of this Agreement for all purposes as though each were written word for word in this Agreement.

In interpreting this Agreement and resolving any ambiguities, the Contract Documents shall be given precedence in the following order: 1) this Agreement, 2) the Proposal.

- 1.3 Terms and Conditions: The terms and conditions in this Agreement are controlling over any other Contract Document. Any discrepancy between this Agreement and the Proposal shall be resolved in favor of this Agreement.

SECTION 2. DESIGNATED REPRESENTATIVES

- 2.1 County's Designated Representatives: The County designates Lynda Fairchild, the Library Director as the Designated Representative with regard to the services performed under this Agreement.
- 2.2 Contractor's Designated Representatives: Contractor designates Hayley White as its Designated Representative with regard to the services performed under this Agreement.
- 2.3 Changes to Designated Representatives: Either Party may change its Designated Representative(s) by providing written notice to the other Party.

SECTION 3. CONTRACTOR'S OBLIGATIONS

- 3.1 Contractor's Performance: Contractor shall begin performance immediately upon the Effective Date. Contractor shall be responsible for conducting its activities in order to achieve the performance of the Agreement. Contractor shall furnish all labor, equipment, fuel, supervision, and any other item or service necessary to provide goods and services described in the Proposal in accordance with the terms and conditions of this Agreement.
- 3.2 Conference and Cooperation: Contractor shall confer with the County on an as needed basis to ensure the services are satisfactorily performed, and to make any necessary or requested adjustments. Contractor shall cooperate at all times with the County, and other contractors providing services to the county to maintain maximum efficiency.
- 3.3 Necessary and Qualified Staff: Contractor shall provide necessary staff and equipment to perform the services, and shall be responsible for any cost associated with implementing this Agreement. Contractor agrees to employ, maintain, and assign a sufficient number of competent and qualified personnel to provide the goods and services required by this Agreement. Contractor shall ensure its employees, staff, agents, and representatives provide the goods and services in a safe manner. The County shall not be responsible for any injury incurred or caused by an employee, member of staff, agent, or representative of Contractor during the provision of any good or service under this Agreement.
- 3.4 Performance Warranty: Contractor represents and warrants to County that it has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession, and will provide the goods and services in accordance with the highest professional standards. All goods and services will comply with applicable industry standards.
- 3.5 Quality of Goods: All goods supplied by Contractor must be new and in first class condition, and, if shipped, must be in containers suitable for damage-free shipment and storage. The goods must be warranted in the same manner and to the same extent as normally provided to other customers of Contractor or the product's manufacturer. "Factory seconds," "refurbished," or otherwise inferior items are not acceptable.
- 3.6 Condition of Goods: Goods supplied under this Agreement must be delivered in the best possible condition, covered by the product warranties provided by Contractor or the product manufacturer to other customers, and are subject to inspection, testing, and approval by the County. In the event that a good fails to meet the requirements of the item's

specifications, or the terms and conditions of this Agreement, Contractor must replace the defective good without charge for the replacement. The County may dispose of defective products that are not picked up by the Contractor without cost or penalty. Goods damaged in shipping are considered defective. Latent defects discovered after delivery and acceptance of any goods may result in revocation of the acceptance of such products.

- 3.7 Trash Removal: Contractor shall remove any packing related trash from the jobsite.
- 3.8 Compliance With Applicable Law: Contractor shall comply with all applicable laws, statutes, ordinances, rules, regulations, standards, codes, and executive orders of the federal, state, and local government, which may affect performance of this Agreement. All vehicle operators shall be appropriately licensed.
- 3.9 Delivery of Goods: The Designated Representative shall identify the location of delivery for the goods to be provided. Contractor must pay for all freight, delivery, handling, and other charges incurred transporting and delivering goods to the County. The Contractor must notify the County immediately of an anticipated or actual delay in the delivery of the goods or performance of the services.
- 3.10 Title and Risk of Loss: Title to and risk of loss for goods to be provided hereunder shall pass to the County only when the County receives and accepts the goods.
- 3.11 Loss or Damage: The County will not be responsible for any loss or damage to the goods provided under this Agreement, unless such damage is directly caused by a County official, officer, or employee. The County's responsibility shall be limited to repairing the damaged good, or replacing it with an identical item.

SECTION 4. CONTRACT PRICE

- 4.1 Monthly Fee: In consideration of the goods and services to be provided by the Contractor under the terms of this Agreement, the County shall pay Contractor a fee for goods actually provided and services actually performed the amount of two hundred sixty-two dollars and thirty-eight cents (\$262.38) each month for a period of twelve (12) months. This sum shall be a fixed fee for the complete performance of the services contemplated by this Agreement.
- 4.2 Price Increases: The County must be notified in writing and accept any price increase prior to the increase taking effect. If Contractor increases any price, and the County does not accept the increase, the County's sole remedy is to terminate the Agreement in accordance with Section 5. If the County terminates the Agreement because of an unaccepted price increase, the termination shall be without penalty.
- 4.3 Payment: The County agrees to pay Contractor for goods and services in the amount identified in Section 4.1 according to the terms and conditions of this Agreement. The County shall pay all valid invoices in accordance with Texas Government Code Chapter 2251. The County will not pay an invoice in full if there is a dispute about the accuracy of the invoice.
- 4.4 Right to Withhold Payment: The County may withhold or nullify the whole or part of any payment to Contractor to such extent as the County deems necessary in the event that:
 - a. Work is not performed in accordance with the Contract Documents, and the defective performance is not remedied as required by the County and in the

timeframe required by the County; or

- b. Contractor or its employees, staff, agents, or representatives cause damage to County property;

4.5 Right to Set-off: The County shall have the right to set-off any amounts owed by County to Contractor under this Agreement.

SECTION 5. TERM AND TERMINATION

5.1 Agreement Term: The term of this Agreement shall begin on the Effective Date, and shall continue for a period of twelve (12) months. The Agreement shall automatically terminate upon expiration of the twelve (12) month period, or otherwise in accordance with its terms. The Agreement will not automatically renew.

5.2 Termination for Failure to Perform: Either Party may terminate this Agreement if the other Party fails to perform in accordance with the terms of this Agreement, provided that the failure to perform is at no fault of the terminating Party. Contractor shall be responsible for any expenses it incurs after the date of termination.

5.3 Termination for Insolvency and Bankruptcy: The County, in its sole discretion, may immediately terminate this Agreement without notice and without the opportunity to cure if Contractor, or any of its parent or subsidiary business entities responsible for providing services under the Agreement become insolvent or files any petition for bankruptcy.

5.4 Termination for Cause or Convenience: The County may terminate this Agreement for cause or convenience, and without penalty, by providing written notice to the Contractor in accordance with Section 5.5. The notice must state the reasons for such termination. Contractor must cease performance of any services immediately upon receiving written notice.

5.5 Notice of Termination: The terminating Party shall provide 30 days written notice of termination to the other Party as provided in Section 16.19.

5.6 Opportunity to Cure: A Party receiving notice of termination for failure to perform in accordance with the terms of this Agreement shall have the opportunity to cure its failure to perform beginning on the day of its receipt of the written notice, and continuing for thirty (30) calendar days thereafter. The cure, if made, shall be to the terminating Party's satisfaction. If no cure is made, the Agreement will terminate on the date specified in the written termination notice, or if no date is specified, on the thirtieth (30th) calendar day after the date of receipt of the notice, unless otherwise agreed by the Parties.

5.7 Termination Without Penalty: Contractor shall not be entitled to any damages, whether direct or indirect, other costs, or expenses should the County choose to exercise its option to terminate.

5.8 Prorated Refund: In the event that the County terminates the Contract prior to automatic termination, the County shall not be required to pay the monthly fee beginning immediately after the date of termination.

SECTION 6. NO EXCLUSION OR PAYMENT

6.1 No Exclusion or Payment: Contractor understands and agrees that this Agreement does not create an exclusive right for Contractor to provide the services contemplated by this

Agreement.

SECTION 7. RECORDS AND AUDITS

- 7.1 Records and Audits: The County and the Waller County Auditor shall have access to and the right to examine any directly pertinent books, documents, papers, and records of Contractor involving transactions relating to this Agreement. The County shall give Contractor reasonable advance notice of intended inspections or audits. Contractor shall maintain records necessary for the County or the County Auditor to complete an audit, and to comply in all respects with any request by the County or the County Auditor for records and documents for the purpose of performing an audit.

SECTION 8. INTERPRETATION

- 8.1 Interpretation: This Agreement controls over any other document, proposal, order form, purchase order, terms, or conditions in regard to the goods and services provided hereunder. In the event of any disputes over the meaning or application of this Agreement, it shall be interpreted fairly and reasonably, and neither more strongly for nor against either Party.

SECTION 9. SITE INSPECTION AND COORDINATION

- 9.1 Site Inspection and Coordination: Contractor represents that Contractor is thoroughly acquainted with all matters relating to the performance of this Agreement. All goods and services provided under this Agreement shall be coordinated under, and performed to the satisfaction of the County or the Designated Representative.

SECTION 10. NO DISCLAIMER OF WARRANTIES

- 10.1 No Disclaimer of Warranties: Contractor shall not disclaim any warranty provided by law. All warranties shall survive the termination of this Agreement.

SECTION 11. PERMITS; COMPLIANCE WITH LAWS AND REGULATIONS.

- 11.1 Permits; Compliance with Laws and Regulations: Contractor shall possess or obtain any applicable permits required by municipal ordinance, county ordinance, or state or federal law for the performance of the services prior to executing this Agreement. Contractor shall perform its obligations pursuant to this Agreement in accordance with all federal, state, and local statutes, ordinances, laws, regulations, and executive, administrative, and judicial orders applicable to the services to be performed.

SECTION 12. INDEPENDENT CONTRACTOR.

- 12.1 Independent Contractor: In performing the services under this Agreement, Contractor and its employees are independent contractors. Contractor shall exercise independent judgment in performing its duties under this Agreement, in cooperation with the County, and is solely responsible for setting working hours, scheduling or prioritizing its work flow, and determining how the work is to be performed. No term or provision of this Agreement or act of the Contractor in the performance of this Agreement shall be construed as making Contractor or its employees an agent, servant, or employee of the County in any capacity or form.

SECTION 13. INDEMNITY.

- 13.1 **INDEMNITY:** CONTRACTOR, ITS OFFICERS, DIRECTORS, PARTNERS, CONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, VENDORS, GRANTEEES, AND/OR TRUSTEES (COLLECTIVELY REFERRED TO AS “CONTRACTOR” FOR PURPOSES OF THIS SECTION), AGREE TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE COUNTY AND ITS OFFICERS, OFFICIALS, DEPARTMENT HEADS, REPRESENTATIVES, AGENTS, AND EMPLOYEES (COLLECTIVELY REFERRED TO AS “COUNTY” FOR PUPOSES OF THIS SECTION) FROM ANY AND ALL CLAIMS, DEMANDS, DAMAGES, INJURIES – INCLUDING DEATH – LIABILITIES, AND EXPENSES (INCLUDING ATTORNEY’S FEES AND COSTS OF DEFENSE) ARISING DIRECTLY OUT OF OR RESULTING FROM THE OPERATION OR PERFORMANCE OF CONTRACTOR UNDER THIS AGREEMENT. THE COUNTY WILL NOT ACCEPT LIABILITY FOR INJURIES THAT ARE THE RESULT OF THE NEGLIGENCE, MALFEASANCE, ACTION, OR OMMISION OF CONTRACTOR. CONTRACTOR AGREES TO ACCEPT LIABILITY FOR INJURIES TO ITSELF OR OTHERS CAUSED BY ITS OWN NEGLIGENCE, MALFEASANCE, ACTION, OR OMMISSION. THIS INDEMNIFICATION PROVISION IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT BE LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST COUNTY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS, AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR’S OR EMPLOYEE’S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONTRACTOR, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS’ COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, AGREEMENT, OR OTHERWISE.

COUNTY SHALL HAVE THE RIGHT TO APPROVE DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION TO DEFEND AND INDEMNIFY COUNTY HEREUNDER, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY COUNTY IN WRITING. COUNTY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, COUNTY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY COUNTY IS NOT TO BE CONSTRUED AS A WAIVER OF

CONTRACTOR'S OBLIGATION TO DEFEND COUNTY OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY COUNTY PURSUANT TO THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNTY APPROVED DEFENSE COUNSEL WITHIN TEN (10) BUSINESS DAYS OF COUNTY'S WRITTEN NOTICE THAT COUNTY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT, COUNTY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONTRACTOR SHALL BE LIABLE FOR ALL REASONABLE ATTORNEY FEES AND COSTS INCURRED BY COUNTY. CONTRACTOR AND COUNTY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

SECTION 14. INSURANCE REQUIREMENTS

- 14.1 Insurance Limits and Required Certificates: Contractor shall provide the County with certificates of insurance evidencing compliance with the requirements of this Section. The certificates shall indicate the name of Innovative Communication Systems, Inc, the name of the insurance company, the policy number, and the term and limits of coverage. The insurance coverage must be with a company authorized to do business in the State of Texas, and shall be of the following types and limits:
- a. Workers Compensation in accordance with the laws of the State of Texas.
 - b. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
 - c. Comprehensive general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policy holder.
 - d. Business Automobile Liability coverage for owned, non-owned, and hired vehicles, with minimum limits of not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
- 14.2 Additional Insured: Contractor's insurance policies that cover performance under this Agreement shall name the County as an additional insured.
- 14.3 Certificates of Insurance: Contractor shall provide the County with certificates of such insurance within ten (10) days of the Effective Date, and the certificates shall indicate insurance coverage as of the Effective Date.
- 14.4 No Decrease in Liability: The County's acceptance of the certificates of insurance shall not relieve or decrease Contractor's liability.
- 14.5 No Cancellation or Modification: Contractor shall not cancel or modify the insurance coverages required by this Agreement without providing thirty (30) days written notice to the County. Contractor shall not allow a lapse in the insurance coverage specified in this

Agreement during the Term.

SECTION 15. ASSIGNMENT

- 15.1 Assignment: Contractor shall not sell, assign, transfer, or convey this Agreement, in whole or in part, without the prior written consent of the County. The following conditions must be met before any permitted assignment becomes effective: a) Contractor must give written notice of a proposed assignment to the County at least thirty (30) days prior to the effective date of the assignment; b) the assignee must explicitly accept all of Contractor's obligations under this Agreement; c) Contractor must retain its obligations to the County under this Agreement until the assignment is effective; d) the Assignment must be executed by both Contractor and the assignee; e) Contractor must provide the County a fully executed assignment agreement not later than five (5) business days after the assignment is signed, and f) the County provides a signed, written consent to the assignment.

SECTION 16. MISCELLANEOUS PROVISIONS

- 16.1 Errors and Omissions: County and Contractor shall cooperate in good faith if this Agreement or any of its exhibits need correction.
- 16.2 Recitals: The Recitals are incorporated into this Agreement.
- 16.3 Jurisdiction and Venue: This Agreement is made in and shall be construed according to the laws of the State of Texas, without regard to its conflict of laws provisions. Venue of any court action(s) brought directly or indirectly by reason of this Agreement shall be in a court of competent jurisdiction in Waller County, Texas. This Agreement is made and is to be performed in Waller County, Texas.
- 16.4 Appropriation of Funds: Texas law prohibits the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Anticipated orders or other obligations that may arise past the end of the current Waller County fiscal year shall be subject to budget approval. Any contract that extends beyond the current Waller County fiscal year is contingent upon the appropriation of funds from the relevant budget and fiscal year. If for any reason funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void on the last day of the current appropriation of funds. Contractor shall be responsible for all expenses occurring after the date of termination.
- 16.5 Right of Review: The County may review and inspect any and all of the services performed by Contractor under this Agreement. The County is granted the right to audit, at the County's election, all of Contractor's records and billings related to the performance of this Agreement as may be reasonably necessary. Contractor agrees to retain such records for a minimum of three (3) years following completion of this Agreement. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Agreement shall be subject to County's rights as may be disclosed by a review under this section.
- 16.6 No Subcontractors: Contractor shall not subcontract any portion of its duties under this Agreement, unless the County has provided prior written consent. In the event that the County provides written consent for a portion of the services to be performed by a subcontractor, the subcontractor must agree to be bound by the terms of this Agreement.

- 16.7 No Waiver: No claim or right arising out of a breach of this Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. The County's failure to require strict performance of any provision of this Agreement does not waive or diminish the County's right thereafter to demand strict compliance with that or any other provision. The County's waiver or failure to exercise in any respect any right provided for in this agreement shall not be deemed a waiver of any further right under this agreement. The County and its employees, officers, and officials do not waive, modify, or alter to any extent any of their defenses, immunities, or remedies.
- 16.8 Force Majeure: Neither Party shall be deemed to have breached any provision of this Agreement as a result of any delay, failure in performance, or interruption of services resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications, or Internet equipment or service, or other catastrophes, or any other occurrences which are reasonably beyond a Party's control. The Parties are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the Part seeking relief under this provision. The Party seeking relief due to force majeure is required to promptly notify the other Party in writing, citing the details of the force majeure event and the relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Agreement has not been terminated. Delay or failure of performance, by either Party to this Agreement, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event. If the Contractor is relieved from performance due to force majeure, the County will also be excused from making payment to the Contractor during the period of nonperformance. If the Contractor has already received payment from the County for the period of nonperformance, the Contractor shall refund a prorated portion of the payment made by County for the period during which performance is excused.
- 16.9 Severability: If any provision of this agreement is invalid, illegal, or unenforceable under any applicable statute, court decision, or rule of law, it is to that extent to be deemed omitted. In such event, there shall be substituted for such deleted provisions a provision as similar as possible in terms and in effect to such deleted provision that is valid, legal, or enforceable. The remainder of the agreement shall be valid and enforceable to the maximum extent possible.
- 16.10 Entire Agreement: This Agreement, together with all of its exhibits, embodies the complete agreement of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties and relating to matters in this Agreement. The Agreement may not be modified, altered, or amended except by written instrument duly executed by both Parties.
- 16.11 Titles Not Restrictive: The titles assigned to the various sections and paragraphs of this Agreement are for convenience only. Titles shall not be considered restrictive of the subject matter of any part of this Agreement.
- 16.12 Tax Exempt: The County is tax-exempt, and will not pay a tax from which it is exempt.

Tax exempt paperwork may be provided upon written request.

- 16.13 Other Expenses: Except as otherwise expressly set forth in this Agreement, each of the parties will bear its own expenses in connection with the performance contemplated by this Agreement.
- 16.14 No Arbitration: A dispute arising under this Agreement shall not be subject to arbitration.
- 16.15 Waiver of Subrogation: Contractor and Contractor's insurance carrier waive any and all rights whatsoever with regard to subrogation against the County as indirect parties to any suit arising out of personal or property damages resulting from Contractor's, its employees', or permitted subcontractors' performance under this Agreement.
- 16.16 No Third-Party Beneficiaries: This Agreement does not inure to the benefit of any third party, except permitted successor or assigns.
- 16.17 Authority to Sign: Signatories to this Agreement represent and warrant that they have the authority to bind the respective parties.
- 16.18 Confidentiality: The County is bound by Texas Government Code Chapter 552, the Public Information Act, and other laws concerning government records. Contractor shall clearly and noticeably mark all confidential information and documents it provides to the County pursuant to this Agreement. The County will make good faith efforts to promptly notify Contractor if any such information is requested in a public information request, subpoena, or other method so Contractor may argue against the release of such information. Contractor recognizes and understands that the final decision as to what information must be disclosed pursuant to the PIA lies with the Texas Attorney General. Contractor further agrees that the County may furnish information acquired through or pursuant to this Agreement and that is requested through the PIA to the Texas Attorney General for a determination of whether the information must be disclosed. Neither the County, nor any of its officers, or employees shall have any liability or obligation to any party for the disclosure to the public, or to any person or persons, of any items or data furnished to the County by Contractor in reliance on any statute, court opinion, court order, or the advice, decision, or opinion of the Texas Attorney General.
- 16.19 Notices: Notices delivered hereunder shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested. Mailed notices shall be deemed received three (3) business days after the notice is placed in the mail with proper postage paid. Any notice or certification to be provided pursuant to this Agreement shall be delivered to the following persons, unless a substitute representative is designated in writing:

To the County:

Waller County Judge
425 FM 1488
Hempstead, Texas 77445

To Contractor:

Attn: Hayley White
8713 Fallbrook
Houston, TX 77064

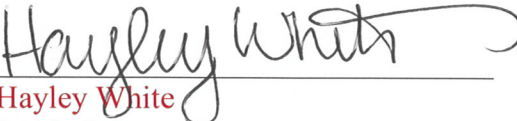
[Signature page follows]

IN WITNESS WHEREOF, the undersigned County and Contractor execute this Agreement as of the date of the last signature affixed hereto.

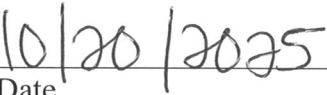
WALLER COUNTY, TEXAS

ICS, INC.

Carbett "Trey" Duhon, III,
Waller County Judge


Hayley White
Inside Sales

Date


Date

ATTEST:

Debbie Hollan
Waller County Clerk



Waller County Brookshire-Pattison Library

Schedule A Quote # 015786

OpenVoice Phones

Prepared For:

Greg Henry
3815 6th Street
Brookshire, TX 77423

Ship To:

Waller County Brookshire-Pattison
Library
3815 6th Street

ICS- Houston

Prepared By:

Jeff Hardin
8713 Fallbrook Dr
Houston, Texas 77064

Date Issued:

09.30.2025

Expires:

10.31.2025

P: (281) 375-5550

E: ghenry@xpernet.com

P: 281.807.2703

E: jhardin@ics-com.net

Part #	Description	Monthly	Qty	Ext. Monthly
CLOVUSER12MNT	ICS OpenVoice User with Voice Mail, Unified Messaging, Desktop App, Mobile App	\$24.00	4	\$96.00
CLDID12MNT	A DID Number NO TALK PATH 36 Month	\$11.00	1	\$11.00
CLSIPENCRYPTION12MNT	Encryption of SIP calls between the customer's office and the ICS CoLo. This is required for HIPAA	\$0.35	4	\$1.40
CLHTTSPFAX12MNT	HTTPS Faxing for High Volume, Critical Faxing- Not HIPAA Compliant. Requires HTTP device 12 Months	\$18.95	2	\$37.90
CLYLSIPT54W12MNT	Yealink SIPT54W Prime Business Phone	\$26.31	3	\$78.93
CLYLP5V2000US12MNT	Yealink P/S For use with the SIP-T29G, SIP-T46S and SIP-T48S, & all T5X series	\$1.38	3	\$4.14
	Yealink W 74H DECT Handset	\$14.67	1	\$14.67
	Yealink W70B Base Station	\$18.34	1	\$18.34

Monthly Expenses Summary	Amount
Products	\$262.38
Monthly Total:	\$262.38

Taxes, shipping, handling and other fees may apply. We reserve the right to cancel orders arising from pricing increases or other errors.

Standard Cash Payment Terms:

Unless under a sub-contractor MSA, all orders directly to customers require a 50% deposit and progress billing.

Standard Terms and Conditions: <https://www.ics-com.net/standard-terms-and-conditions>

If this is a Managed IT renewal, by digitally signing this document, the customer agrees to the ICS Managed IT terms and conditions located at <https://www.ics-com.net/managed-it-service-contract/>

Quote Acceptance	
ICS- Houston	Waller County Brookshire-Pattison Library
Jeff Hardin	
Signature / Name	Signature / Name Initials
09/30/2025	
Date	Date

AGREEMENT - TOTAL CLOUD VoIP- OPV, IaaS



Agreement Number: 015786V 1	
Full Legal Name: Waller County Brookshire-Pattison Library	Address: 3815 6th Street Brookshire, TX 77423
Vendor: INNOVATIVE COMMUNICATIONS SYSTEMS, INC.	☒ 2 Months Security Deposit <i>Deposit may be waived if customer agrees to an ICS initiated ACH on or about the 10th of each month.</i> ____ Other ____ TOTAL "OTHER" SECURITY DEPOSIT ____
EQUIPMENT LOCATION (If different than attached Schedule A):	EQUIPMENT AND PAYMENT TERMS TYPE, MAKE, MODEL NUMBER, SERIAL NO. & INCLUDED ACCESSORIES <u>SEE ATTACHED SCHEDULE A</u>
TERM IN MONTHS: 12	MONTHLY PAYMENT AMOUNT (INCLUDES VENDOR CLOUD SERVICES FEES): \$262.38 per month

NOTE: Due to recent tariff events and short notice of price increases from our partners, ICS will have to confirm pricing from the manufacturer/supplier upon signing. Any tariff price changes will have to be passed on to the end-user.

We have written this Agreement in plain language because we want you to fully understand its terms. Please read your copy carefully and feel free to ask us any questions you may have about it. We use the words you and your to mean you, the customer. The words we, us, and our, refer to IT Equipment Financing, LLC. The word "Agreement" refers to this agreement. CPE refers to Customer Provided Equipment or equipment purchased through ICS, Inc.

ICS Inc.'s responsibility with respect to its obligation to provide service under this Agreement are outlined below.

1. AGREEMENT

- 1.1 You agree to pay the monthly payment amount stated above for the equipment and services referenced herein ("equipment") each month by the due date for the entire term of this Agreement.
- 1.2 If any amount owed to us is not paid when due, you will agree to pay a late charge equal to the greater of ten (10) cents for each dollar overdue or Fifty dollars (\$50.00).
- 1.3 Any security deposit required by the terms hereof may be commingled with other security deposits or amounts held by ITEF, will not earn interest, and will be returned at the end of the term, provided you are not then in default.
- 1.4 All payments due hereunder shall be made payable to our servicing agent, Innovative Communications Systems, Inc (ICS, Inc.) and remitted to the servicing agent at 10430 Gulfdale Street, San Antonio, Texas 78216. Our servicing agent will ensure that all payments received are properly credited to amounts due hereunder within one (1) business day of actual receipt of your payment.

Customer Initials: _____

2. TERM

2.1 This Agreement shall have an initial term of the defined months above.

2.2 This Agreement will begin on the date the Services are provided to you shall remain in effect until the services provided herein are terminated or canceled as allowed by the terms and conditions as contained herein.

3. RENEWAL

3.1 At the end of the term, to avoid service interruption, this Agreement will automatically renew for a period of twelve (12) months (each a 'Renewal Term'). Upon initial Renewal Term, we will increase the monthly payment amount by a minimum of ten percent (10%).

4. SCOPE OF WORK

4.1 This Agreement includes the installation and implementation of the equipment reference on the attached Schedule A, the Carrier Services, End User Training and ongoing hardware Maintenance.

5. NET AGREEMENT

5.1 This Agreement is non-cancellable for the entire term stated above for any reason except as set forth in section 6.2 below. You acknowledge that we are paying for the equipment based on your unconditional acceptance of such equipment and your promise to pay us pursuant to the terms of this agreement, without set-off for any reason.

6. TERMINATION

6.1 Customer acknowledges that ICS may suspend the Services provided hereunder if (i) any payment due from Customer hereunder is thirty (30) or more days past due and (ii) ICS has provided Customer at least five (5) days written notice prior to suspending Services, during which time Customer may cure any delinquent payment. If delinquent payment has not been cured or if you breach any other term of this Agreement or any other agreement with us, you will be in default, and we may require that you pay us: (i) all past due amounts and (ii) all remaining payments for the unexpired term, plus our booked residual. We may also use all other legal remedies available to us. You agree to pay all our costs and expenses, including reasonable attorney fees, incurred in enforcing this Agreement.

6.2 ICS, Inc. acknowledges Customer may terminate this Agreement for failure by ICS, Inc. to deliver the Services in accordance with the terms hereof. Prior to any such termination by Customer, Customer agrees to provide ICS, Inc. written notice advising of any failure and provide ICS, Inc. a reasonable amount of time to cure such failure. If ICS, Inc. fails to cure the failure within a reasonable amount of time after receipt of Customer's notice and this Agreement is terminated by Customer prior to the expiration of the term as set forth in Section 2 above, Customer shall pay ICS, Inc. for all amounts due hereunder through the date of termination, but Customer shall not be liable for the remaining value of the Agreement.

7. WARRANTY

7.1 We will extend all manufacturer hardware warranties to you, the Customer.

8. ASSIGNMENT

8.1 You may not sell, assign or sublease the equipment or this Agreement without our prior written consent. We may sell or assign this Agreement or our rights in the equipment, in whole or in part, to a third party with prior notice to you. You agree that if we do so, the assignee will have our rights but will not be subject to any claim, defense, or set-off assertable by you against us or anyone else.

9. LAW/FORUM

9.1 This Agreement and any claim related to this Agreement will be governed by Texas law. Any dispute will be adjudicated in a state or federal court located in Bexar County, Texas. You consent to personal jurisdiction and venue in such courts and waive transfer of venue. Each party waives any right to a jury trial.

10. LOSS OR DAMAGE

10.1 No loss or damage will relieve you from your payment obligations hereunder. We are not responsible for, and you will indemnify us against, any claims, losses or damages, including attorney fees, in any way relating to the equipment. In no event will we be liable for any consequential or indirect damages.

11. TAXES

11.1 We will prepare, file, bill, collect and pay all property taxes and fees relating to the equipment and this Agreement for you. For providing this service, you agree to pay us, in addition to the amount of taxes and fees you owe on the equipment, an annual fee equal to two and one-half percent (2 ½ %) of the original cash value of the Equipment within ten (10) days of receipt of our invoice therefor.

12. OWNERSHIP

12.1 You acknowledge that we own the equipment unless you elect to purchase the equipment from us at their then fair market value as provided herein. Until such purchase by you, if any, your rights to use and enjoy the equipment are as a lessee pursuant to the terms of this Agreement.

Customer Initials: _____

13. INTERNATIONAL CALLING

13.1 Under this agreement, only domestic calling (includes US & Canada) is included. International calls and 800 calls can be added to your account and billed on a per minute basis.

14 VOICE QUALITY AND SERVICE INTERRUPTIONS:

14.1 ICS, Inc. is responsible for the quality of the voice traffic within their CoLo facility. ICS, Inc. is not responsible for the voice quality once the call leaves their CoLo facility and travels across the internet providers pipe, customer provided Ethernet Switches, and/or customer provided data cabling. ICS, Inc. will bill all professional services required to trouble shoot the voice quality over these devices/carrier circuits. ICS, Inc. agrees to monitor network quality to ensure 99.999% uptime. In the event of outages within ICS, Inc's CoLo only, ICS, Inc. will discount the monthly payment to reflect the outage on a prorated basis when requested by Customer. Such outage must be reported within forty-eight (48) hours of the outage and must be during normal business hours. Scheduled service windows do not constitute as an outage. ICS, Inc. will provide advance notification to Customer via email of any scheduled service dates/times.

15. MAINTENANCE

15.1 ICS, Inc.'s responsibility with respect to its obligation to provide maintenance service under this agreement shall be limited to the equipment and services provided under this Agreement and equipment purchased from ICS, Inc. within Customer's premises;

A. ICS, Inc. will provide services upon Customer's request in order to repair CPE malfunctions due to wear and tear resulting from normal use in accordance with standard operating instructions.

B. In the event that ICS, Inc. responds to Customer's request for service and Customer's claim of CPE malfunction is due to problems on the carrier's side of the point of connection between the CPE and the equipment provided by the carrier or due to malfunctions in equipment or software other than that covered by this Agreement, Customer will be responsible for additional charges for such response in accordance with ICS's prevailing rates.

C. For non-emergency service request reported before 12:00 PM, ICS, Inc. shall use reasonable efforts to respond within five (5) business hours after Customer's problem is reported.

D. For emergency service requests reported during normal business hours, ICS, Inc. shall use reasonable efforts to respond within two (2) business hours after Customer's problem is reported.

E. In response to Customer's service request, ICS, Inc. may commence repair or replacement from a remote location, dispatch service personnel to Customer's site and/or ship replacement CPE as soon as practical. Hardware replacement parts and products may be new or equivalent to new in performance. Customer must return defective CPE within ten (10) days or ICS, Inc. shall invoice Customer for the full replacement cost. ICS, Inc. reserves the right to inspect all defective CPE and have final determination of the status of such CPE. Customer agrees any CPE covered under this Agreement shall be purchased from ICS, Inc.

F. In addition to the service-related items covered in this agreement, ICS, Inc. will provide unlimited Help Desk Support during normal business hours.

G. Preventative and remedial updates as required by the manufacturer's specifications will be provided by ICS, Inc.

15.2 ICS, Inc. will perform its services in a professional manner in accordance with prevailing industry standards. ICS, Inc. is not obligated to provide replacement parts, software releases, second tier help desk support, upgrades or maintenance service resulting in functionality which exceeds that expressly provided in manufacturers' or suppliers' specifications at the time such product was installed. ICS, Inc. is not obligated to provide replacement parts or support for equipment that was not purchased from ICS, Inc. and makes no guarantee as to parts availability on manufacturer-discontinued products. In the event a manufacturer discontinues producing any CPE or in the event the CPE has outlived the manufacturer's suggested product life cycle, ICS, Inc. shall continue to provide maintenance services for as long as parts are readily available. In the event repair parts are not readily available, ICS, Inc. shall advise customer. Customer shall have the option to replace CPE with a similar product at ICS, Inc.'s then prevailing rate.

16. UCC

16.1 You agree that this Agreement is (and or shall be treated as) an "Operating Lease" as that term is defined in Article 2A of the Uniform Commercial Code ("UCC").

17. COLLATERAL ASSIGNMENT

17.1 We have collaterally assigned this Agreement and our rights under this Agreement to The Bank of San Antonio ("Bank") and granted the Bank a security interest in this Agreement and our rights hereunder, as security for debts we now or later may owe the Bank. Until you are notified by the Bank, payment under this Agreement should be made to us as herein provided. When and if you are so notified by the Bank, all of your payments under this Agreement are to be made directly to the Bank at 8000 IH-10 West, Suite 1100, San Antonio, TX 78230. Unless you are notified otherwise by the Bank, we remain responsible to you to fulfill our obligations under this Agreement, and the Bank has no obligations to you under this Agreement. However, the Bank is entitled to all protections under this Agreement that we have; for example, the Bank may rely on your waivers of warranties, and on your acceptance of the equipment. If you receive a Purchase Option Letter, be sure the letter shows that the Bank approved the letter; otherwise the letter is not valid against the Bank. The Bank has a security interest in the equipment you are leasing hereunder. YOU MUST GIVE A COPY OF ANY NOTICE THAT THE EQUIPMENT IS NOT ACCEPTABLE TO YOU TO THE BANK AT THE SAME TIME YOU GIVE THE NOTICE TO US OR THE BANK WILL NOT BE

Customer Initials: _____

BOUND BY YOUR NOTICE. THIS AGREEMENT MAY NOT BE MODIFIED WITHOUT THE BANK'S PRIOR WRITTEN CONSENT.

18. RESOLUTION

18.1 If you are not an individual, we may ask you to provide a corporate resolution in a form reasonably acceptable to us authorizing this transaction and identifying the person authorized by you to execute this Agreement in your name and on your behalf.

19. MISCELLANEOUS

19.1 This Agreement is the entire agreement between you and us with respect to the subject matter hereof and supersedes any prior representation or agreements, including any purchase orders. The parties agree that the original of this Agreement for enforcement and perfection purposes shall be that paper copy which: (A) bears (i) the original or a facsimile of your manually applied signature, or (ii) a stamped or electronically applied replica of your signature or other indication of your intent to enter into the Agreement, and (B) bears the original of your manually applied signature. The parties agree that such original shall be the sole "record" constituting "chattel paper" under the UCC. You agree to assist us in the filing of any forms necessary to perfect our security interest in the equipment. Any change must be in a writing signed by both parties.

19.2

The customer agrees not to attempt or process a call providing altered, deceptive, or false information about the sender's identity or the origin of a message or phone call. The customer also agrees not to violate any applicable local, state, or federal law by using Innovative Communication Systems, Inc.'s service to engage in or in connection with fraudulent activities. Violating the terms of these conditions can result in termination of services but does not void the customer of their financial obligation to this contract.

20. ERRORS AND OMISSIONS

20.1 You agree to fully cooperate in the correction, if necessary, of this Agreement and any exhibits or schedules attached hereto so that all such documents accurately describe and reflect the transaction between the parties within thirty (30) days of receipt of written request from ITEF.

Customer Initials: _____

Agreement Acceptance		
ICS- Houston		Waller County Brookshire-Pattison Library
Jeff Hardin		
Signature / Name	Signature / Name	Initials
09/30/2025		
Date	Date	

Customer Initials: _____