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Safety
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Spec. File

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AGREEMENT FOR LEASE OF TELEPHONE SYSTEM AND MAINTENANCE

THIS LEASE AGREEMENT (hereinafter "Lease") is made and entered into on this 2nd day of November, 2009, by and between the City of Manitowoc, a municipal corporation, located at 900 Quay Street, County of Manitowoc, Wisconsin, 54220, (hereinafter "City") and Creative Solutions, Inc., a Wisconsin Corporation, located at 6609 Norheim Road, Manitowoc, WI, 54220 (hereinafter "CSI").

RECITALS

WHEREAS, the City has maintained the existing telephone system for approximately ten (10) years; and

WHEREAS, with the advancements in technology, the City is in need of a new updated telephone system to service all City departments and buildings; and

WHEREAS, the City's Finance Department taking into account the needs of the City Departments has researched telephone systems for cost effectiveness; and

WHEREAS, it has been determined by the City Finance Department that CSI has a telephone system which will meet the needs of the City, which system includes Panasonic KX-TDA 600 phone system and KX-TVA200 voicemail system.

NOW, THEREFORE, the parties do agree as follows:

I. Leased Equipment. Subject to the terms and conditions of this Lease, CSI leases to City and City leases from CSI, the Panasonic KX-TDA600 phone system and Panasonic KX-TVA 200 voicemail systems described in the quote attached hereto as Exhibit "A" (hereinafter "Equipment").

II. Installation. CSI shall provide all necessary services for installation relating to the Leased Equipment in a good workmanlike manner as designated and customary in the industry. CSI shall install Equipment, at no cost to the City, in the designated City Departments in locations as determined by the City. CSI shall give clear and concise instructions as to the use of the Equipment to all users at no charge to the City.

III. Term. This lease shall be in effect for an initial term of two (2) years, commencing December 1, 2009, and terminating November 30, 2011. The lease shall automatically renew on a month to month basis after the initial two (2) year, with either party having the option of terminating the Lease after the initial two (2) year term by giving sixty (60) calendar days written notice of termination.

IV. Lease Payment. The City shall pay a Lease payment of \$2,050.00 per month, plus any applicable taxes, for the duration of the Lease. Payment will be due within thirty (30) calendar

days of receipt of the invoice from CSI. The first and last month's payments are due within ten (10) calendar days of final execution of this Lease document.

V. Maintenance and Repair of Equipment.

A. CSI shall have sole responsibility for the costs of the maintenance and repair of the equipment provided by CSI. CSI shall diagnose problems which occur at no charge, and shall bear the costs of all damages, issues and problems related to or arising out of the Equipment and workmanship of CSI, its employees, agents, servants and assigns.

B. CSI shall provide emergency service, defined as a major failure of the communication system, to the City and all its related departments within two (2) hours of the trouble being reported. CSI shall provide regular service within twenty-four (24) hours of the reported problem.

C. CSI service under this contract will not be provided to the City for conditions related to local telephone company lines; acts of abuse, misuse, or negligence; or power failure and surges, lightning, fire, flood, pest damage, accident, actions of third parties, events out of CSI's control, or not arising under normal operation conditions. If maintenance is required for any such services, CSI will perform work on a time and material basis, with a service call fee of \$25.00 and an hourly rate of \$80.00. The minimum fee for such service will be \$65.00.

VI. Compliance with Laws. CSI shall ensure that the Leased Equipment is compliant with Federal, State, and Local laws and regulations. The City shall use the Leased Equipment in compliance with all Federal, State, and Local laws and regulations.

VII. Insurance. At all times during the term of this Lease, CSI shall keep in force and effect all insurances policies outlined below, issued by a company or companies licensed to do business in the State of Wisconsin, which insurance company shall be acceptable to the City. CSI shall provide a current Certificate of Insurance to the City as evidence of coverage throughout the lease term, the City shall be listed as a Certificate Holder and the Certificate shall give the City thirty (30) calendar days notice of cancellation or termination.

Liability Insurance. CSI shall carry comprehensive liability insurance with a combined single limit of not less than \$500,000 for bodily injury and \$1,000,000 aggregate, with property damage of not less than \$500,000 and statutory worker's compensation and employer's liability insurance as required by the State of Wisconsin.

VIII. Damage to Premises. If during the term of this Lease the building or improvements upon which the Leased Equipment is located shall be significantly damaged or destroyed by fire, explosion, the elements, an act of God or any other casualty, either party shall have the option to terminate the Lease upon such damage or destruction at no further costs, obligations or fees accruing and owing after termination. If neither party elects to terminate the lease, Lease payments shall be reduced proportionately to the extent there is a decrease in the usefulness of the Leased Equipment to the City.

IX. Indemnification. CSI shall defend, indemnify and hold harmless City and all its officials, departments, committees, employees, representatives and agents against any and all liability, claims, costs, damages, expenses, demands, lawsuits or disputes, including reasonable attorney fees and all costs and expenses of litigation, except to the extent caused by or attributed to the negligent acts of the City.

City shall defend, indemnify and hold harmless CSI and all its employees, representatives and agents against any and all liability, claims, costs, damages, expenses, demands, lawsuits or disputes, including reasonable attorney fees and all costs and expenses of litigation, except to the extent caused by or attributed to the negligent acts of CSI, its employees representatives and agents.

X. Representations and Warranties. CSI represents and warrants that the Leased Equipment is expressly fit and merchantable in design and condition for the purpose intended by the City.

XI. Default. A material default or material breach (both hereinafter referred to as a "default") under this Lease shall be defined as the failure of the parties to perform any term, covenant, condition, warranty, or promise of this Lease required to be performed. In the event of any default of this Lease, or any of its terms or conditions by any party hereto, such party shall, upon written notice from the other party, proceed immediately to cure or remedy such default, and in any event shall cure such default within thirty (30) calendar days of receipt of written notice of default. In the event of a default, the non-defaulting party shall have the option of terminating the Lease upon written notice to the breaching party.

XII. Termination. This Lease may be terminated as stated under Section III above, or by either party upon thirty (30) calendar days prior written notice to the other party as follows:

1. By either party upon a default of any covenant, term or condition of this Lease Agreement hereof by the other party, which default is not cured within thirty (30) calendar days of receipt of written notice of default to the other party;
2. By either party if CSI is unable to obtain or maintain any license, insurance, permit or other governmental approval necessary for the construction and/or operation of the phone or voicemail system their business;
3. By City if it determines in its sole discretion that the Equipment is unsound or unfit for its use;

Upon termination of this Lease for any reason, CSI shall remove its Equipment from City premises within thirty (30) calendar days after the date of termination. Any personal property, equipment, or improvements, which are not removed by CSI within thirty (30) calendar days after the date of termination, shall become the property of the City, unless the parties agree otherwise.

XIII. Assignment. This Lease Agreement is not assignable without the prior written consent of the City.

XIV. Integration. This agreement represents the entire understanding of the City and CSI as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to matters covered hereunder.

XV. Jurisdiction. This agreement shall be administered and interpreted under the laws of the State of Wisconsin. Jurisdiction of litigation arising from this Lease shall be in this state. If any part of this Lease is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this agreement shall be in full force and effect.

XVI. Survival of Provisions. All indemnification and hold harmless obligations of CSI shall survive the expiration or termination of this Lease.

XVII. Notice and Demand. Any notice, demand, or communication under this Agreement by any party to the other party shall be given or delivered by first class, registered, or certified mail, postage paid, return receipt requested or delivered in person as follows to:

CITY: CITY CLERK
900 Quay Street
Manitowoc, WI 54220

CREATIVE SOLUTIONS, INC: 6609 Northeim Road
Manitowoc, WI 54220

The above addresses or designated party may be changed in any time by the parties by giving notice in writing in the manner provided above.

XVIII. Amendments. This Lease is the entire agreement between the parties and can only be modified or changed in writing executed in the same manner as this document by all parties.

XIX. Successors and Assigns. This Lease shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns. Any transfer of any party's interest under this Lease, shall not release the transferring party from its obligations hereunder.

XX. Severability. If any provision of this Lease is deemed by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and such remainder would then continue to be valid and enforceable to the fullest extent permitted by law.

XXI. Pronouns. Pronouns in this Lease, importing any specific gender shall be interpreted to refer to CSI or City as the identity of the parties hereto, or the parties herein referred to, may require. Pronouns, verbs and/or other words in this Lease importing the singular number shall be interpreted as plural, and plural words as singular, as the identity of the parties hereto, or the parties or objects herein referred to, may require.

XXII. Section Headings. The section titles have been inserted in this Lease primarily for convenience, and do not define, limit or construe the contents of such paragraphs. If headings conflict with the text, the text shall control.

XXIII. Governing Law. This Lease shall be deemed to have been made in Manitowoc County, Wisconsin, and shall be governed by, construed under, and enforced in accordance with, the law of the State of Wisconsin, except as otherwise provided herein. All actions or proceedings relating directly or indirectly, to this Lease whether sounding in contract or tort shall be litigated only in the circuit court located in Manitowoc County, Wisconsin. All parties to this Lease hereby subject themselves to the jurisdiction of the circuit court for Manitowoc County, Wisconsin.

XXIV. Relationship of Parties. Nothing in this Lease nor any act of CSI or City shall be deemed or construed to create any relationship of third party beneficiary, of principal or agent, of limited or general partners, of joint venture, or of any association whatsoever between the parties hereto. CSI is an independent contractor providing services to the City. No employee of CSI shall be considered an employee of the City or be covered under any City insurance policies.

XXV. Rights and Remedies Cumulative. The rights and remedies of the parties, whether provided by law or provided by this Lease, shall be cumulative, and the exercise of any one or more of such remedies shall not preclude the exercise at the same or different times of any other such remedies for the same event of default, or of any remedies for any other event of default by the other parties. No waiver made by any party with respect to the performance or manner or time of any obligation of any party under the Lease, shall be considered a waiver of any rights of the or City, as the case may be, to enforce any other obligations of the parties under this Lease. Delay of any party in the enforcement of any term, condition, or covenant contained in this Lease shall not be construed as a waiver of any party's right to enforce said obligation.

XXVI. Counterparts. This Lease may be executed in duplicate counterparts, each of which shall be deemed an original.

XXVII. Construction. All parties have contributed to the drafting of this Agreement. In the event of a controversy, dispute, or contest over the meaning, interpretation, validity or enforcement of this document or any of its terms or conditions, there shall be no inferences, presumption or conclusion drawn whatsoever against any party whatsoever by virtue of that party having drafted the document or any portion thereof.



Creative Solutions, Inc.

Phone: (920) 726-4510 Fax: (920) 726-5280
 6609 Northeim Rd
 Manitowoc, WI 54220

Quote

No.: **2257**

Date: **08/16/2009**

Prepared for:
 Tony Scherer 686-6963
 Manitowoc City Of
 900 Quay Street
 (VP150 686-6979)
 Manitowoc, WI 54220 U.S.A.

Prepared by: Keith V. Hartlaub
 Account No.: 161
 Phone: (920) 686-6911
 Fax: (920) 686-6959

Description: All sites TDA600 with VA200 Voice Mail

Qty.	Item ID	Description	UOM	Sell	Total
1	KX-TDA600-ASSEMBLY	KX-TDA600 Cabinet Assembly Maximum Capacity of 192 Ports. Power Supply Sold Separately. Cabinet with 10 free slots. Includes surge protector, installation, programming, remote maintenance card, and up to 4 hours training.	EA	\$3,618.00	\$3,618.00
1	Hybrid IP Card Enhanced SD	Hybrid IP Card Enhanced SD	EA	\$952.00	\$952.00
2	KX-TDA620	KX-TDA620 Expansion Shelf Maximum Capacity of 192 Ports. Power Supply Sold Separately. Cabinet with 11 Free Slots.	EA	\$909.64	\$1,819.28
1	KX-TDA6110	Shelf Connection Card for KX-TDA600 (BUS-M)	EA	\$382.20	\$382.20
2	KX-TDA6111	Shelf Connection Card for KX-TDA620 (BUS-ME)	EA	\$764.40	\$1,528.80
3	KX-TDA0104	M-Type Power Supply	EA	\$674.00	\$2,022.00
5	KX-TDA0172-INST	16-Port Digital Line Card, Installed	HR	\$332.00	\$1,660.00
4	KX-TDA0174-INST	16-Port SLC Card, Installed	EA	\$673.68	\$2,694.72
4	KX-TDA0175-INST	16-Port MW SLC Card, Installed	EA	\$718.27	\$2,873.08
1	KX-TDA0484-INST	4-Port IP Gateway Card	EA	\$908.10	\$908.10
1	KX-TDA0190-INST	Optional 3-Slot Base Card, Installed	EA	\$271.10	\$271.10
1	KX-TDA0161	4-Port Doorphone Card	EA	\$260.00	\$260.00
1	KX-TDA0290-INST	PRI Card, Installed	EA	\$899.00	\$899.00
75	KX-T7633-B	24-Button, 3-Line Backlit Display Speakerphone, Black 24-Button, 3-Line Backlit Display Speakerphone, Black	EA	\$185.00	\$13,875.00
1	KX-T7640-B	60-Button DSS Console, Black 60-Button DSS Console, Black	EA	\$178.36	\$178.36
8	KX-DT321-B 1-Line LCD with Back Light	1-Line LCD Display Phone with Back Light	EA	\$123.35	\$986.80
1	KX-TVA200-ASSEMBLY	KX-TVA200 Voicemail Assembly 1024 Mailboxes. Expandable to 24 ports. Includes all hardware and software to connect to LAN for email intergration. Price includes modem for remote programming, installation, programming, and up to 4 hours of training.	EA	\$3,151.99	\$3,151.99
2	KX-TVS204 4-Port Expansion Card	4-Port Expansion Card for Voice Mail System	EA	\$532.00	\$1,064.00
99	KX-NT136-B	24-Button, 6-Line Backlit LCD IP Phone, Black	EA	\$380.93	\$37,712.07
7	KX-TDA0470-INST	16-Port IP Extension Card, Installed	EA	\$1,035.50	\$7,248.50
1	KX-NCS4716	16-Channel SIP License (SPE16)	EA	\$472.65	\$472.65
1	KX-TDE0110	16-Channel VoIP DSP Card	EA	\$333.79	\$333.79



Creative Solutions, Inc.

Phone: (920) 726-4510 Fax: (920) 726-5280
 6609 Northeim Rd
 Manitowoc, WI 54220

Quote

No.: **2267**

Date: 08/16/2009

Prepared for:
 Tony Scherer 686-6963
 Manitowoc City Of
 900 Quay Street
 (VP150 686-6979)
 Manitowoc, WI 54220 U.S.A.
 Description: All sites TDA600 with VA200 Voice Mail

Prepared by: Keith V. Hartlaub
 Account No.: 161
 Phone: (920) 686-6911
 Fax: (920) 686-6959

Qty.	Item ID	Description	UOM	Sell	Total
23	KX-HGT100B	Black Panasonic SIP Phone	EA	\$112.13	\$2,578.99
		Switch needed for IP phones			
1	FF420	4 Port Fax Finder	EA	\$1,736.95	\$1,736.95
2	FS108PNA	Netgear 8-Port 10/100 Switch + 4 POE	EA	\$156.80	\$313.60
14	FS116PNA	Netgear 16-Port 10/100 Switch + 8 POE	EA	\$279.01	\$3,906.14
3	PoE Power Adpt.	PoE Power Adpt.	EA	\$42.00	\$126.00
	PoE Power Adpt.				
400.00	HR	Basic Labor	HR	\$60.00	\$24,000.00

Your Price: \$117,573.12

Total: \$117,573.12

Creative Solutions, Inc. shall honor this Quote until: 10/15/2009

Investment Schedule:

Initial Investment: 30%

Upon Installation Completion: 60%

Thirty (30) Days after Installation Completion: 10%

Quoted by: Keith V. Hartlaub
 Phone: (920) 726-5292
 Email: keith@creativeinc.com

Date: 8/16/2009

Accepted by: _____ **Date:** _____