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Ener-Tel Services Inc. CCTV Equipment Lease Agreement



Agreement dated April 22, 2015, by and between Ener-Tel Services, Inc. (hereinafter referred to as "Ener-Tel") and Tom Green County Clerk's Office (hereinafter referred to as "Lessee".)

Phone: 325-659-6553

The parties hereto agree that:

1. **SUPERVISORY EQUIPMENT IS LEASED AND REMAINS PERSONAL PROPERTY OF LESSOR:** Ener-Tel shall lease, instruct Lessee in the proper use of the CCTV security system, install and service on the premises of Lessee, located at 124 W. Beauregard
San Angelo, TX 76903 supervisory equipment, described

herein, including all necessary devices and equipment, for the duration of this agreement, with the understanding that the entire system, including all software, apparatus, equipment, instruments, and wire installed or connected with the system is and shall always remain the sole personal property of Ener-Tel and shall not be considered a fixture or a part of the realty, and Lessee shall not permit the attachment thereto of any apparatus not furnished by Ener-Tel.

2. **SCHEDULE OF INSTALLATION:** Description of Equipment: The value of installed equipment is: \$ 14,010
SEE SCHEDULE OF INSTALLATION WHICH IS PART OF THIS CONTRACT.

Central Station Remote Video Monitoring YES/NO

Approximate date work to begin 5/15/2015. Estimated date work to be substantially completed: 5/29/15

3. **INSTALLATION, RENTAL, AND SERVICE CHARGES:** Lessee agrees to pay Ener-Tel:

(a) The sum of \$ 5,560.00 plus tax for the installation of the CCTV security system, of which \$ 5,560.00 plus tax is payable upon the execution of this agreement, and the balance upon completion of the installation. Installation charge is allocated to offset Ener-Tel's labor for installation of equipment. The balance of payments for the term of this agreement is upon execution of this agreement. For the convenience of the parties and so long as there is no default in payments, Lessee may make the payments as provided in 3(b).

(b) The sum of \$ 500.00, plus tax, per month, payable in advance for the rental and servicing of the system for the term of this agreement commencing on the first day of the month next succeeding the date hereof, and continuing monthly thereafter, all payments being due on the first of the month.

4. **TERM OF AGREEMENT; RENEWALS/ INCREASES OF MONTHLY CHARGE:** The term of this agreement shall be for a period of five years and shall automatically renew month to month thereafter under the same terms and conditions, unless either party gives written notice to the other by certified mail, return receipt requested, of their intention not to renew the contract at least 30 days prior to the expiration of any term.

5. **SYSTEM OPERATION AND LIMITATIONS:** CCTV equipment is attached to a digital recorder computer and Lessee shall not use the computer for any other purpose. Lessee shall be permitted to access and make changes to the system's operation on site and over the internet. If data storage is selected service, Ener-Tel shall store data received from Lessee's system for one year.

6. **CENTRAL STATION REMOTE MONITORING:** If this service is selected, upon receipt of a video signal the video system is designed to activate in the central station and record CCTV reception, upon which, Ener-Tel or its designee central office, shall make every reasonable effort to notify Lessee by email or alpha numeric page to a beeper or cell phone or hand held device so enabled, and the appropriate municipal police or fire department. Lessee acknowledges that signals transmitted from Lessee's premises directly to municipal police or fire departments or subscriber's internal security stations are not monitored by personnel of Ener-Tel or Ener-Tel's designee central office and Ener-Tel does not assume any responsibility for the manner in which such signals are monitored or the response, if any, to such signals. Lessee acknowledges that signals which are transmitted through the internet, over telephone lines, wire, air waves, internet, VOIP, or other modes of communication pass through communication networks wholly beyond the control of Ener-Tel and are not maintained by Ener-Tel and, Ener-Tel shall not be responsible for any failure which prevents transmission signals from reaching the central office monitoring center or damages arising therefrom, or for data corruption, theft or viruses to subscriber's computers if connected to the alarm communication equipment. Lessee agrees to furnish Ener-Tel with a written list of names and telephone numbers of those persons Lessee wishes to receive notification of signals. All changes and revisions shall be supplied to Ener-Tel in writing. Lessee authorizes Ener-Tel to access the supervisory panel to input or delete data and programming. If Lessee requests Ener-Tel to remotely activate or deactivate the system, change combinations, openings or closings, or re-program system functions, Lessee shall pay Ener-Tel \$75.00 for each such service. Ener-Tel may, without prior notice, suspend or terminate its services, in central station's sole discretion, in event of Lessee's default in performance of this agreement or in event central station facility or communication network is nonoperational or lessee's alarm system is sending excessive false alarms. Central station is authorized to record and maintain audio and video transmissions, data and communications, and shall be the exclusive owner of such property.

7. **CREDIT INVESTIGATION:** Lessee and any guarantor authorize Ener-Tel to conduct credit investigations to determine Lessee's and guarantor's credit worthiness.

SEE REVERSE SIDE FOR TERMS AND CONDITIONS OF THIS AGREEMENT WHICH ARE PART OF THIS CONTRACT: READ THEM BEFORE YOU SIGN THIS CONTRACT. LESSEE ACKNOWLEDGES RECEIVING A FULLY EXECUTED COPY OF THIS CONTRACT AND SCHEDULE OF EQUIPMENT AT TIME OF EXECUTION.

Ener-Tel Services, Inc.:

By: _____

Lessee agrees to pay charges due under this agreement as follows:

Bank Draft or Credit/Debit Card (Circle One)

Frequency: (Circle One)

Monthly Quarterly Semi-Annually Annually

Mailed Statement:

Frequency: (Circle One)

Monthly Quarterly Semi-Annually Annually

LESSEE Tom Green County Clerk's Office

Name must be printed - Use Full Business Name

By: Elizabeth McGill Tax ID or EIN _____
Name and title must be printed below

County Clerk

The undersigned personally guarantees lessee's performance of this Agreement.

Elizabeth McGill

Name must be printed below Social Security Number

124 W. Beauregard, San Angelo, Tx
Residence Address 76903
Business

Lessee's Email Address: elizabeth.mcgill@co.tom-green.tx.us

8. ALTERATION OF PREMISES FOR INSTALLATION: Ener-Tel is authorized to make preparations such as drilling holes, driving nails, making attachments or doing any other thing necessary in Ener-Tel's sole discretion for the installation and service of the system, and Ener-Tel shall not be responsible for any condition created thereby as a result of such installation, service, or removal of the system. Ener-Tel shall not be responsible for the condition of the premises upon removal of the system and Lessee represents that the owner of the premises, if other than Lessee, authorizes the installation of the system under the terms of this agreement.

9. LESSEE'S DUTY TO SUPPLY ELECTRIC AND TELEPHONE SERVICE: Lessee agrees to furnish, at Lessee's expense, all 110 Volt AC power and electrical outlets and receptacles, internet access, high speed broadband cable or DSL and IP Address, telephone hook-ups, RJ31x Block or equivalent, as deemed necessary by Ener-Tel in its sole discretion.

10. TESTING AND REPAIR OF SYSTEM: The parties hereto agree that the system, once installed, is in the exclusive possession and control of Lessee, and it is Lessee's sole responsibility to test the operation of the system and to notify Ener-Tel if any equipment is in need of repair. Ener-Tel shall not be required to service and repair the system unless it has received notice from Lessee that the equipment is inoperable and upon such notice, and provided Lessee is not in default of this agreement, Ener-Tel shall service the system, providing labor and material, to the best of its ability within 72 hours, exclusive of Saturday, Sunday and legal holidays, during the business hours of 9 a.m. and 5 p.m. Ener-Tel will repair or replace any equipment rendered inoperable by reason of ordinary wear and tear. Lessee agrees to pay for any repairs or replacement of equipment caused by other than ordinary wear and tear. Lessee agrees to test and inspect the system immediately upon completion of installation and to advise Ener-Tel in writing within three days after installation of any defect, error or omission in the system. In the event Lessee complies with the terms of this agreement and Ener-Tel fails to repair the system within 72 hours after notice is given, excluding Saturdays, Sundays, and legal holidays, Lessee agrees to send notice that the system is in need of repair to Ener-Tel, in writing, by certified or registered mail, return receipt requested and Lessee shall not be responsible for payments due while the system remains inoperable.

11. LESSEE TO INSURE EQUIPMENT: Lessee shall insure Ener-Tel's equipment against fire and casualty and Lessee agrees to name Ener-Tel in said insurance policy as "loss payee" to the extent of the value of the equipment as set forth hereinabove. Lessee shall be responsible for any loss occasioned by fire or casualty and the cost of replacing or restoring the system. Notwithstanding the condition of Lessee's premises, or Ener-Tel's impossibility of performance occasioned by condition of Lessee's premises, Lessee shall remain liable for monthly payments for the term of this agreement without offset or reduction.

12. INSURANCE: The minimum limits of liability of such insurance shall be one million dollars for any injury or death, and property damage, burglary and theft coverage in an amount necessary to indemnify Lessee for property on its premises. Ener-Tel shall not be responsible for any portion of any loss or damage which is recovered or recoverable by Lessee from insurance covering such loss or damage or for such loss or damage against which Lessee is indemnified or insured.

13. ASSIGNMENTS/WAIVER OF SUBROGATION RIGHTS: Lessee shall not be permitted to assign this agreement without written consent of Ener-Tel. Any such assignment without Ener-Tel's prior approval shall be deemed a breach of this agreement. Ener-Tel shall have the right to assign this contract and shall be relieved of any obligations created herein upon such assignment. Lessee on its behalf and any insurance carrier waives any right of subrogation Lessee's insurance carrier may otherwise have against Ener-Tel or Ener-Tel's subcontractors arising out of this agreement or the relation of the parties hereto. Lessee shall not be permitted to assign this agreement without written consent of Ener-Tel.

14. REMOVAL OF SYSTEM: Upon termination of this agreement Ener-Tel shall be permitted to remotely delete programming and allowed access to Lessee's premises to remove the system. If for any reason caused by Lessee, or the owner of the premises if other than Lessee, said system is not recovered by Ener-Tel within 24 hours of such termination, said Ener-Tel shall not be required to service the system, and may order the termination of any central office monitoring or other services, and Lessee shall remain liable for all payments called for herein.

15. LEGAL ACTION: The parties agree that due to the nature of the services to be provided by Ener-Tel the payments to be made by Lessee for the term of this agreement are an integral part of Ener-Tel's anticipated profits, and in the event of Lessee's breach of this agreement it would be difficult if not impossible to reasonably estimate Ener-Tel's actual damages. Therefore, in the event of Lessee's default of this agreement Lessee shall pay to Ener-Tel 80% of the balance due for the term of this agreement as liquidated damages and Ener-Tel shall be permitted to terminate all its services under this agreement without relieving Lessee of any obligation herein. Additionally, in the event of Lessee's breach of this agreement Ener-Tel may, at its option, either remove its equipment or deem same sold to Lessee for 80% the amount specified as the value of the equipment. The parties waive trial by jury in any action between them. In any action commenced by Ener-Tel against Lessee, Lessee shall not be permitted to interpose any counterclaim. Any action by Lessee against Ener-Tel must be commenced within one year of the accrual of the cause of action or shall be barred. All actions or proceedings against Ener-Tel must be based on the provisions of this agreement. Any other action that Lessee may have or bring against Ener-Tel in respect to other services rendered in connection with this agreement shall be deemed to have merged in and be restricted to the terms and conditions of this agreement. Should Ener-Tel refer this contract to an attorney, Lessee shall pay Ener-Tel's legal fees. Lessee submits to the jurisdiction of Texas and agrees that any litigation between the parties must be commenced and maintained exclusively in the State of Texas and in the County where Ener-Tel's principal place of business is located. The commencement of any action, proceeding or arbitration and service of legal process or papers in any action, proceeding or arbitration between the parties may be served by prepaid First-Class Mail delivered by the U.S. Post Office or overnight by Federal Express or UPS to the party's address in this agreement or other address provided by a party in writing to other party.

16. ADDITIONAL PAYMENTS & LIEN LAW: In addition to the payments set forth herein, Lessee agrees to be liable for and pay to Ener-Tel any excise, sales, property, or other tax, telephone line charges, and any increases thereof, which may be imposed upon Ener-Tel because of this agreement. Should Ener-Tel be required by existing or hereinafter enacted law to perform any service or furnish any material not specifically covered by the terms of this agreement Lessee agrees to pay Ener-Tel for such service or material. Ener-Tel or any subcontractor engaged by Ener-Tel to perform the work or furnish material who is not paid may have a claim against purchaser or the owner of the premises if other than the purchaser which may be enforced against the property in accordance with the applicable lien laws.

17. FALSE ALARMS/PERMIT FEES: Lessee is responsible for all alarm permits and fees, agrees to file for and maintain any permits required by applicable law and indemnify or reimburse Ener-Tel for any fines relating to permits or false alarms. Ener-Tel shall have no liability for permit fees, false alarms, false alarm fines, police or fire response, any damage to personal or real property or personal injury caused by police or fire department response to alarm, whether false alarm or otherwise, or the refusal of the police or fire department to respond. In the event of termination of police or fire response by the municipal police or fire department this contract shall nevertheless remain in full force and Lessee shall remain liable for all payments provided for herein. Should Ener-Tel be required by existing or hereinafter enacted law to perform any service or furnish any material not specifically covered by the terms of this agreement Lessee agrees to pay Ener-Tel for such service or material.

18. LESSOR'S RIGHT TO SUBCONTRACT SPECIAL SERVICES: Lessee agrees that Ener-Tel is authorized and permitted to subcontract any services to be provided by Ener-Tel to third parties who may be independent of Ener-Tel, and that Ener-Tel shall not be liable for any loss or damage sustained by Lessee by reason of fire, theft, burglary or any other cause whatsoever caused by the negligence of third parties, and that Lessee appoints Ener-Tel to act as Lessee's agent with respect to such third parties, except that Ener-Tel shall not obligate Lessee to make any payments to such third parties. Lessee acknowledges that this agreement, and particularly those paragraphs relating to Ener-Tel's disclaimer of warranties, exemption from liability, even for its negligence, limitation of liability and indemnification, inure to the benefit of and are applicable to any assignees, subcontractors and central offices of Ener-Tel.

19. NO WARRANTIES OR REPRESENTATIONS: LESSEE'S EXCLUSIVE REMEDY: Ener-Tel does not represent nor warrant that the system will prevent any loss, damage or injury to person or property, by reason of burglary, theft, hold-up, fire or other cause, or that the system will in all cases provide the protection or service for which it is installed or intended. Lessee acknowledges that Ener-Tel is not an insurer, and that Lessee assumes all risk for loss or damage to Lessee's premises or its contents. Ener-Tel has made no representation or warranties, and hereby disclaims any warranty of merchantability or fitness for any particular use. Lessee's exclusive remedy for Ener-Tel's default hereunder is to require Ener-Tel to repair or replace, at Ener-Tel's option, any equipment or part of the system which is non-operational.

20. EXCULPATORY CLAUSE: Lessee agrees that Ener-Tel is not an insurer and no insurance coverage is offered herein. The equipment is designed to reduce certain risks of loss, though Ener-Tel does not guarantee that no loss will occur. Ener-Tel is not assuming liability, and, therefore shall not be liable to Lessee for any loss, personal injury or property damage sustained by Lessee as a result of burglary, theft, hold-up, fire, equipment failure, smoke, or any other cause, whatsoever, regardless of whether or not such loss or damage was caused by or contributed to by Ener-Tel's negligent performance, failure to perform any obligation or strict products liability. Lessee releases Ener-Tel from any claims for contribution, indemnity or subrogation.

21. NON-SOLICITATION: Lessee agrees that it will not solicit for employment for itself, or any other entity, or employ, in any capacity, any employee of Ener-Tel assigned by Ener-Tel to perform any service for or on behalf of Lessee for a period of two years after Ener-Tel has completed providing service to Lessee. In the event of Lessee's violation of this provision, in addition to injunctive relief, Ener-Tel shall recover from Lessee an amount equal to such employee's salary based upon the average three months preceding employee's termination of employment with Ener-Tel, times twelve, together with Ener-Tel's counsel and expert witness fees.

22. FULL AGREEMENT/SEVERABILITY/CONFLICTING DOCUMENTS: This agreement constitutes the full understanding of the parties and may not be amended, modified or canceled, except in writing signed by both parties, except Ener-Tel's requirements regarding items of protection provided for in this agreement imposed by Authority Having Jurisdiction. Subscriber acknowledges and represents that Subscriber has not relied on any representation, assertion, guarantee, warranty, collateral contract or other assurance, except those set forth in this agreement and waives any claims in connection with same. Should any provision of this agreement be deemed void, all other provisions will remain in effect.

Ener-Tel Services, Inc.
4512 Adobe Drive, P.O. Box 5290
San Angelo, TX 76902-5290
(325) 658-8375

WORK ORDER – SCHEDULE OF INSTALLATION

In accordance with the contract between Ener-Tel Services, Inc. (hereinafter referred to as "Ener-Tel" or "Lessor") and Subscriber, which this work order supplements, the Schedule of Protection will include the following labor and materials. All provisions of the contract govern the installation and nothing contained herein is intended to modify or terminate the contract or any provision contained therein.

REMOTE VIDEO ACCESS: If Remote View Camera Service is included in the Schedule of Equipment to be installed by Ener-Tel and remote services are to be provided, the equipment will transmit video data via LESSEE's high speed Internet service to LESSEE's Internet connected device, which is compatible with Ener-Tel's remote server. Ener-Tel will grant access to LESSEE to view the remote video camera(s). The remote viewing services are provided either by Ener-Tel or a third party. Ener-Tel shall install the camera(s) in a permissible legal location in LESSEE's premises to permit LESSEE's viewing. Ener-Tel shall have no responsibility for failure of data transmission, corruption or unauthorized access and shall not monitor or view the camera data.

WIRELESS AND INTERNET ACCESS CAPABILITIES: LESSEE is responsible for supplying high speed Internet access at LESSEE's premises. Ener-Tel does not provide Internet service or maintain Internet connection or wireless access, computer, smart phone, electric current connection or supply, or the remote video server unless the remote video server is owned and maintained by Ener-Tel. Ener-Tel is not responsible for LESSEE's access to the Internet or any interruption of service or down time of remote access. LESSEE acknowledges that LESSEE's security system can be compromised if the Internet codes or devices used for access are lost or accessed by others and Ener-Tel shall have no liability for such third party unauthorized access. Ener-Tel is not responsible for the security or privacy of any wireless network system or router. Wireless systems can be accessed by others, and it is the LESSEE's responsibility to secure access to the system with pass codes and lock outs.

LABOR:

- Installation of CAT 6 Cable
- Installation of Devices
- Project Management, Programming, and Engineering Labor

MATERIAL:

- (1) Video Insight 4 TB NVR Rack Mount
- (15) Advidia 3 MP Fixed Cameras with IR
- CAT 6 Cable
- (1) 24 Port Cisco Switch

CAMERA LOCATIONS:

1st Floor Tom Green County Clerk's Office

Ener-Tel Services, Inc.:

By: _____

LESSEE:


LESSEE'S SIGNATURE

5-19-15
DATE

