



COMRES COMPLETE MANAGED VOICE SERVICES SALES AGREEMENT TERMS AND CONDITIONS

1. SERVICE - ComRes, Inc. (Seller), agrees to sell, and Buyer agrees to buy, the equipment (the “Goods”) and services itemized on the Seller’s Service Sales Agreement

- (a) **Maintenance Services:** Seller shall provide managed voice services on the attached list of telephone system hardware, software and labor. This is a labor-only maintenance plan unless otherwise noted specifically in any executed sales order. Customer shall have selected one of several types of plans including Bronze, Silver or Gold.
- (b) **Response Time:** Response times vary based on whether the request is during normal business hours (8X5) or Overtime/Holiday, as well as whether they are a request for repair, or work orders (changes). Seller shall always attempt to effect repairs or work orders remotely before dispatching an on-site technician. Seller shall respond according to the following schedule:

Type of Request	Remote Support			On-Site Support		
	Bronze	Silver	Gold	Bronze	Silver	Gold
Minor Repair 8X5	4 hours	4 hours	2 hours	NBD	NBD	4 hours
Minor Repair OT/Holiday	NBD	NBD	4 hours	NBD	NBD	8 hours
Major Repair 8X5	NBD	NBD	4 hours	NBD	NBD	4 hours
Major Repair OT/Holiday	NBD	NBD	4 hours	NBD	NBD	8 hours

* Response times not guaranteed for Force Majeure (acts of God) – Response is prevented, delayed, or otherwise made impractical by reason of any hurricane, inclement weather, flood, riot, fire, strike, explosion, war, governmental action, or regulation, or any other similar cause beyond the reasonable control of Seller.

Definitions:

Major Repair Request - Service outage affecting more than 25% of inbound/outbound phone calls or users
 Minor Request – Any request that is not classified as a major request
 NBD – Next Business Day

(c) **Exclusions:** Exclusions from coverage are:

- (1) Force Majeure (acts of God) – Seller shall not be responsible for meeting response times for any request that results from events such as hurricane, inclement weather, electrical damage, flood, riot, fire, strike, explosion, war, governmental action, or regulation, or any other similar cause beyond the reasonable control of Seller.
- (2) Buyer’s account is more than 30 days in arrears, unless an invoice is contested in good faith
- (3) Coverage for phones or other items not specifically noted in the managed services agreement
- (4) Cabling supplied by a third party.
- (5) Failure by Buyer to provide Seller access to system to be serviced
- (6) Equipment or software assurance, unless specifically noted in the managed services plan purchased
- (7) On-site visits outside the ComRes local service area defined as 60 miles from ComRes office address
- (8) On-site visits to any address other than the primary Customer address serviced by this agreement
- (9) Printing of labels for phones

2. SERVICE FEE

- (a) Buyer agrees to pay a service fee agreed to in a separately executed ComRes Managed Services Agreement.
- (b) The service fee does not include federal, state, or local taxes, which may be applicable and billed additionally.
- (c) If Buyer does not make payments on account to Seller of any amount payable under ComRes’ payment terms, then in addition to all the remedies available to Seller at law or equity or under other provisions of this Agreement, Seller may collect interest on the sum then owing at the rate of 1.5% per month from the due date until payment by Buyer; and, without extending the term of this agreement, cease maintaining the equipment and cease performance of any other obligation undertaken in this agreement. ComRes payment terms are Net 30 from invoice date of all Work Orders and Installation Change Authorizations, payment in advance for monthly/annual maintenance agreements.



3. TERM

The term of this Agreement shall be defined in a separately executed ComRes Service Sales Agreement. Upon the end of the term of this agreement, this agreement shall automatically renew on an annual basis at ComRes prevailing month-to-month maintenance rates unless notified in writing by Buyer. In the event of an automatic renewal, Seller reserves the right to adjust service pricing to existing rates and to reflect any changes to the configuration of equipment covered.

4. WARRANTIES

(a) SELLER EXTENDS NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO BUYER FOR THE SERVICES PROVIDED BY THIS AGREEMENT.

(b) SELLER WILL NOT BE LIABLE TO BUYER FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR FOR LOSS, DAMAGE, OR EXPENSE DIRECTLY OR INDIRECTLY ARISING FROM BUYER'S USE (OR INABILITY TO USE), OR A THIRD PARTY'S UNAUTHORIZED USE, OF THE SYSTEM OR ITS COMPONENTS, EITHER SEPARATELY OR IN COMBINATION WITH OTHER EQUIPMENT, OR FOR COMMERCIAL LOSS OF ANY KIND, REGARDLESS OF WHETHER SELLER OR ITS SUBCONTRACTORS HAD BEEN ADVISED OF SUCH POSSIBILITY.

(c) IN ALL SITUATIONS INVOLVING PERFORMANCE OR NONPERFORMANCE BY SELLER UNDER THIS AGREEMENT, BUYER'S SOLE AND EXCLUSIVE REMEDY IS (1) TO TERMINATE THIS AGREEMENT BY WRITTEN NOTICE TO SELLER, AND (2) TO RECEIVE A PRO RATA REFUND OF ANY PRE-PAID MAINTENANCE SERVICE CHARGES, LESS ANY SUMS DUE AND OWING SELLER.

5. **WAIVER OF CONTRACTUAL RIGHT.** The failure of either party to enforce any provision of this Contract shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Contract.

6. **APPLICABLE LAW.** This Contract shall be governed by the laws of the State of Florida and the parties agree that venue for any action arising from or based upon this agreement shall be brought in Broward County, Florida.

7. TERMINATION

(a) If either party is in default of its obligations under this Agreement and such default continues for thirty (30) days after written notice is given by the party not in default, such non-defaulting party may (in addition to all other rights and remedies provided in this Agreement or by law) terminate this Agreement.

(b) Notwithstanding (a) above, if either party becomes insolvent, enters voluntary or involuntary bankruptcy, or takes any measures generally designed for the relief of debtors, then the other party may (in addition to all rights and remedies provided in this Agreement or by law) terminate this Agreement immediately without notice.

8. MAINTENANCE PROCEDURE CONTACTS

The following is a list of critical contacts for the Buyer to request service. It is the Buyer's responsibility to provide the Seller with an updated list of Buyer's key contacts including cell phone numbers, email addresses and a list of personnel authorized to request support.

<u>CONTACT</u>	<u>PHONE NUMBER</u>	<u>EMAIL ADDRESS*</u>	<u>WEB</u>
ComRes Service Dispatch	877-379-9600 954-462-9600	service@comresusa.com	www.comresusa.com

* Any emergency requests for service or repair should be followed up with a call to ensure it was received.

9. **DEFAULT.** The occurrence of any of the following shall constitute a material default under this Contract – a) the failure to make a required payment when due, b) the failure of the Buyer or Seller to fulfill the obligations within this agreement.

10. **REMEDIES ON DEFAULT.** In addition to any and all other rights available according to law, if either party defaults by failing to substantially perform any material provision, term or condition of this Contract (including without limitation the failure to make a monetary payment when due), the other party may elect to terminate this Contract if the default is not cured within 10 days after providing written notice to the defaulting party. The notice shall describe with sufficient detail the nature of the default. If the Seller



terminates this agreement for reason of default, the Seller maintains the right to demand immediate payment for money owed under any sales agreement or work order, including a) un-billed contractual progress payments and b) future monthly rental or maintenance billing owed under a sales agreement. The Buyer agrees to pay for a) interest on all late payments for money owed under all sales and work order agreements at the maximum rate allowed by law until paid and b) reasonable costs for collection and c) reasonable costs of attorneys' fees and expenses of litigation that the Seller may incur in collecting any unpaid amount.

11. NON-SOLICITATION COVENANT. During the period of this agreement and for a period of 2 years after termination of this agreement, Buyer shall not directly or indirectly solicit, induce or attempt to induce any employee or subcontractor of Seller, to terminate his or her employment or relationship with Seller. Seller agrees that it shall not directly or indirectly solicit, induce or attempt to induce any employee of Buyer to terminate his or her employment with Buyer. This provision shall survive the termination of this agreement for the period stated herein. A violation by the either party of this paragraph shall be deemed a material violation of this Agreement and will justify legal and/or equitable relief specifically including injunctive relief; it being recognized by the parties that damage will be incurred for which there is no adequate legal remedy by law. If such a violation occurs and a party seeks legal remedy resulting in an injunction or judgment the prevailing party shall be able to recover all reasonable attorney's fees and legal expenses incurred.

12. NOTICES. Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the addresses listed above or to such other address as one party may have furnished to the other in writing. The notice shall be deemed received when delivered or signed for, or on the third day after mailing if not signed for by the addressee.

13. ASSIGNMENT. Neither party may assign or transfer this Contract without prior written consent of the other party, which consent shall not be unreasonably withheld.

14. ENTIRE CONTRACT. This Contract contains the entire agreement of the parties regarding the subject matter of this Contract, and there are no other promises or conditions in any other agreement whether oral or written which have not merged into this agreement, unless done so in writing in the form of a Sales agreement (including all associated addenda, schedules or attachments) or Work Order that associates itself with this Term and Conditions agreement.

15. AMENDMENT. This Contract may be modified or amended if the amendment is made in writing and signed by both parties. All services/equipment provided shall be listed on documents named as Sales Agreements, Amendments, Attachments, Installation Change Authorization forms or Work Order Forms.

16. SEVERABILITY. If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

