

State of Washington



Department of Corrections
Contract No. CD0C6840

This Contract for offender phone equipment and services and associated offender monitoring and recording equipment and services (this "Contract") is made as of the date of last signature by the parties, by and between FSH Communications, LLC, a Limited Liability Company ("Contractor") and the State of Washington acting by and through its DEPARTMENT OF CORRECTIONS ("DOC"). Throughout this Contract, DOC or Contractor may individually be referred to as "Party" or together as "Parties."

RECITALS

Pursuant to authority delegated to DOC by the state of Washington, Department of Information Services (DIS); DOC issued a Solicitation Number CRFP6446 dated August 1, 2005, (the "Solicitation") whereby DOC sought responses from prospective vendors to acquire offender telephone service in order to replace an existing contract for offender telephones located in facilities owned or operated by the DOC or contractors on its behalf which may be increased or decreased by the DOC during the term of the Contract.

Contractor is in the business of providing phone service within the meaning of Section 276 of the Telecommunications Act of 1996. In response to the Solicitation, Contractor submitted its response to provide certain telephone services for DOC offenders.

This Contract embodies the terms and conditions mutually acceptable to the Parties for the provision of the Services defined below.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the Parties hereby agree as follows:

PART I. - SPECIAL TERMS AND CONDITIONS

Section 1.01 DEFINITIONS

As used in this Contract, the capitalized terms contained in Appendix 1.01 shall have the respective meanings set forth therein.

The name assigned to this Contract and the part and section captions used herein are for convenience of reference only and shall not affect the interpretation or construction hereof. Unless otherwise specified, (a) the terms "hereof," "herein" and similar terms refer to this Contract as a whole and (b) references herein to "Parts" or "Sections" refer to parts or sections of this Contract. The use of words in the singular or plural, or with a particular gender, shall not limit the scope or exclude the application of

any provision of this Contract to such Person or Persons or circumstances as the context otherwise permits. Time is of the essence in the performance of the Parties' respective obligations. Unless otherwise specified, all references to money amounts are to U.S. currency. All references, if any, to generally accepted accounting principles means to GAAP and all accounting terms, if any, not otherwise defined in this Contract have the meanings assigned to them in accordance with GAAP.

Section 1.02 APPENDICES, EXHIBITS AND ATTACHMENTS

The appendices, exhibits and schedules to this Contract attached to this Contract are incorporated by this reference into this Contract.

Section 1.03 CONTRACTOR AND SUBCONTRACTORS

DOC agrees that portions of the Services performed under this Contract may be performed by Contractor and portions may be performed by DOC approved Subcontractors. DOC hereby grants to Contractor, subject to the regulations of the FCC, the authority to select and contract with the carriers that provide local, interLATA, intraLATA, and interstate and international calls from the offender, subject to the approval of DOC. As of the date hereof, the Subcontractors under this Contract are as follows: (i) Value-Added Communications (VAC) (Focus 100 digital inmate call control platform including integrated monitoring and recording), (ii) Global Tel*Link Corporation (GTL) (long distance services as well as direct facility support and services via the Focus 100 platform and using their own offender telephone equipment), and (iii) Paragon Communications Services LLC (installation and maintenance of telecommunications equipment under contract with GTL). The foregoing notwithstanding, Contractor may provide any of the Services currently contemplated to be subcontracted to the Subcontractors described above, provided that the rates, prices and charges for such Services are no higher than those permitted under Section 3.01 below and that Contractor satisfies all of its other obligations under this Contract with respect to the provision of the Services. Any substitute or additional Subcontractors will be listed on the attached Appendix 6.01.3 in accordance with the provisions of Section 6.01.3 below.

PART II. - SERVICES

Section 2.01 SCOPE OF WORK

Contractor agrees to provide to DOC and DOC agrees to grant the authority for Contractor to provide for DOC correctional facilities the services described in Appendix 2.01 attached hereto (individually, a "Service", and collectively, the "Services"); provided. The work contemplated under this Contract shall include all labor, materials, the transportation, equipment and other activities for, and reasonably incidental to, making the Services operational. It also includes furnishing, installing, interfacing, operating, maintaining, and billing (if applicable) the Services described in this Contract and the appendices, exhibits and other attachments hereto. Silence of the Contract

regarding delivery of Services normally offered with respect to the deliverables requested in the Contract does not constitute any waiver of Services by DOC.

Without limiting any of the requirements contained in Appendix 2.01, Contractor agrees to: (a) provide local and long distance (intrastate intraLATA, intrastate interLATA, interstate, and international) telephone service for all offender phones at Contractor's expense; (b) install, maintain, and keep in operation all offender phones connected to the Focus 100 equipment, associated equipment, hardware, and enclosures, as specified in Appendix 2.01, at Contractor's expense; (c) install as required and maintain monitoring and recording systems at designated DOC correctional facilities at no cost to DOC; (d) provide initial new product and refresher training to DOC personnel as reasonably requested by DOC on the operation of monitoring and recording systems at Contractor's expense; (e) service and repair all offender phones and associated equipment at Contractor's expense; (f) retain ownership of all offender phones, monitoring and recording systems, associated equipment, hardware, software and enclosures provided by Contractor; (g) provide such personal background data as is required by DOC on any Contractor personnel intending to enter a correctional facility; (h) provide, within sixty (60) days of the close of Contractor's fiscal year, an annual inventory of telephone numbers of all offender phones and the DOC facility in which each such Offender Phone is located; and (i) update all software and hardware used in connection with the Services rendered to DOC facilities including, but not limited to, the monitoring and recording systems, to be compatible with the most current version of Microsoft Windows operating system, provided the same after such upgrades is compatible with the existing systems utilized by DOC, including but not limited to, all existing data storage, and provide on-site training to all DOC personnel regarding such upgraded software and hardware.

During the Term of this Contract, Contractor shall replace or keep in operation, and maintain the entire offender phones currently located in DOC facilities at such levels that will ensure regular usage by inmate population. Contractor will conduct periodic traffic studies to determine average use, and in the event that said studies support an increase or decrease of offender phone count at a DOC facility, Contractor will make the necessary change after written notification to and approval by DOC. The foregoing notwithstanding, Contractor shall remove any offender phone requested to be removed by DOC. Before Contractor is required to install any new offender phone, Contractor must first receive written authorization from DOC. It is understood that offender phones are located at DOC prison and work release facilities; and that such facilities may open or close during the contract term.

Contractor may request that DOC consider allowing Contractor to remove certain offender phones that Contractor claims to be uneconomical to Contractor; provided, however that this provision does not create any right in Contractor to have any such offender phone removed, and the decision of whether to remove such offender phones shall be made by DOC in its sole discretion.

Unless a longer period is mutually agreed to by the Parties, Contractor shall install any new offender phone within thirty (30) days of the delivery to Contractor of a

Written Authorization (as described below) directing Contractor to install such new offender phone. The foregoing notwithstanding, subject to the prior written consent of DOC, which shall not be unreasonably withheld, Contractor may request a period of time longer than thirty (30) days to install a particular new offender phone that Contractor cannot reasonably install, within such thirty (30) day period. It is understood that to install a new offender phone the DOC must ensure that the proper conduit, station wiring, and electricity as required and as described in Section 6.18, DOC Covenants, is installed to support the use and location of the offender phone.

All Equipment, including, but not limited to, all offender phones, shall be new or "Like-New", except for Equipment already in place and previously installed under prior contracts between DOC and Contractor, Contractor agrees that all of the Equipment used by Contractor, or its Subcontractors shall be identical, equivalent or better to that equipment described in the Solicitation, unless DOC consents in writing to any different equipment, which consent will not be unreasonably withheld.

Contractor shall list on all offender phones the written information which is normal and customary in the industry to be listed on such offender phones or as required by the DOC, provided, however, that any information listed on any offender phone is subject to DOC's prior written approval.

Contractor agrees that all of the Services shall be turnkey.

Section 2.02 ORDERS FOR ADDITIONAL SERVICES

A written authorization to implement Additional Services (a "Written Authorization"), delivered by DOC to the Contractor, shall be used to order Additional Services beyond the Initial Service (not including requests for additional offender phones), and to request any changes or additions to the Services. Such Written Authorization shall specify the quantity, service dates, and other operational parameters of the requested Services. DOC may require Contractor to assist in the preparation of such Written Authorizations by providing necessary Services description, operating parameters, and/or interface information to the extent that Contractor and Subcontractors can provide such assistance. Contractor shall provide this assistance at no added cost to DOC. Each such Written Authorization shall be approved and issued only by DOC.

Section 2.03 NEW TECHNOLOGY

When new technology, either equipment or services related to the Services, becomes available, Contractor agrees to notify DOC within a reasonable time after such availability so that DOC can consider whether such new technology should be utilized by Contractor in rendering the Services. DOC shall have the option, in DOC's sole discretion, to have such new technology utilized by Contractor to render the Services as soon as practical or at such later time as DOC shall determine; provided that the Parties mutually agree that such new technology does not materially increase Contractor's costs of rendering the Services to be affected by such technology.

In considering whether or not to extend the term of this Contract after the Initial Term, DOC may consider the need for utilizing new technology during any such Extended Term. If the use of such new technology will materially increase the costs of Contractor rendering the Service, and DOC wishes to utilize the same and DOC elects, in its sole discretion, to pursue, the Parties will attempt in good faith to negotiate changes to this Contract to allow the use of the new technology. The foregoing notwithstanding, any such new technology provided at DOC facilities must be compatible with any existing Recording Media or other information related to the Services and must result in any Recording Media related to offender phone Services being admissible in any legal proceeding involving DOC. In addition, any change to this Contract requiring the use of new technology at DOC facilities must provide for initial new product and refresher training for DOC personnel in the use of the technology, at Contractor's expense, provide for the installation and maintenance of any new equipment and for any specialized environmental requirement related thereto. Responsibility for such specialized environmental requirements shall be agreed upon by the Parties.

Section 2.04 AVAILABILITY OF SERVICES

The Services to be provided under this Contract will be made available by Contractor as directed by DOC.

PART III. - RATES AND COMMISSION

Section 3.01 RATES

Neither DOC nor any State Entity shall have any liability for the payment of the calls placed from the offender phones. Neither DOC nor any State Entity shall be liable for any costs or expenses in connection with the Services hereunder, it being understood that all compensation to Contractor for rendering the Services hereunder shall be from the amounts charged by Contractor to the users of the offender phones. The rates and prices for the Services described in Appendix 3.1 shall be the total costs to users of the offender phones, excluding applicable taxes or tariffed surcharges as required by the State PUC or FCC, such Services shall be complete (i.e., Turnkey), and any unspecified costs or expense for such Services shall be borne by Contractor.

The rates, prices and charges for the Services as described in Appendix 3.01 shall be the, maximum rates, prices and charges that may apply during the Initial Term of this Contract. Upon mutual agreement of the Parties after the Initial Term of this Contract, such rates, prices and charges shall be reviewed by DOC and Contractor to determine if they should be modified based upon, among other factors, technology changes, Commission payable under the next section, capital investment by Contractor, and revenues and profitability to Contractor of the operation of the offender phones.

Section 3.02 COMMISSION

In consideration of Contractor being given the opportunity under this Contract to render the Services, and DOC's agreements contained in this Contract, Contractor shall pay to DOC the fees described in Appendix 3.01 (the "Commission"). Except for the Commission payable by Contractor to DOC, Contractor shall not be liable to DOC or any State Entity for any commissions or fees with respect to the Services Tendered by Contractor under this Contract:

Contractor will pay the Commission directly to DOC, and shall notify the DOC program administrator in writing of the amount and date of each such payment when Contractor pays the same. DOC will provide to Contractor the address for DOC to which the Commission shall be paid. Contractor shall pay the Commission owed by Contractor hereunder to DOC on a quarterly basis, payable on or before the 30th day of January, April, July and October of each calendar year during the Term. The first quarter's commission shall be prorated upon execution of the Agreement, payable at a daily rate of thirteen thousand nine hundred and seventy-two dollars and sixty cents (\$13,972.60). Any Commission not paid to DOC when due shall bear interest at the rate of one percent (1%) per month or, if less, the maximum rate allowed by law, until the same is paid in full.

Section 3.03 TAXES - FEDERAL AND LOCAL

Neither DOC nor any State Entity will be liable for any taxes accruing or coming due as a result of this Contract, whether federal, State, or local, and Contractor shall be responsible for any such taxes.

PART IV. - TERM.

The initial term of this Contract is from the Agreement's execution date through December 31, 2009 ("Initial Term"). Unless terminated earlier, at the end of the Initial Term and each one (1) year period thereafter until December 31, 2014, the term of this Contract shall automatically renew for an additional one (1) year term, on the same terms and conditions contained in this Contract (or as contained in the Contract as it exists immediately before the end of the then current term), for up to five (5) successive one (1) year renewals (all such renewal terms are referred to collectively as the "Extended Term"), unless either Party delivers, via certified mail, RETURN RECEIPT REQUESTED, written notice to the other Party of its desire to terminate the Contract, sent at least one hundred eighty (180) days prior to the last day of the then current Term of this Contract. If either Party delivers any such notice of its desire to terminate, the Term of this Contract shall automatically terminate on the last day of the then current Term of this Contract. The foregoing notwithstanding, the Term of this Contract cannot be extended beyond December 31, 2014 without the written agreement by both DOC and Contractor.

PART V. - PART REPRESENTATIONS AND WARRANTIES

Section 5.01 CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

Contractor makes the following representations and warranties for the benefit of DOC:

(a) Contractor is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware, and has the corporate power to carry on its business as it is now being conducted and currently proposed to be conducted. Contractor is qualified as a foreign corporation to do business, and is in good standing, in the State of Washington. Contractor is fully licensed and registered with the Washington Utilities and Transportation Commission to provide the Services. Contractor's registered agent for service of process in the State of Washington is Corporation Service Company.

(b) Contractor has the right, power and authority to enter into, and perform its obligations under this Contract. This Contract has been executed by a representative of Contractor who is authorized to make a commitment on behalf of Contractor.

(c) Contractor has delivered to DOC (i) certifications issued by the applicable governmental authorities evidencing Contractor's authorization to conduct business and render the services in the State of Washington; and (ii) a certificate signed by an officer of the Contractor who is the Secretary or Assistant Secretary of Contractor certifying the incumbency and specimen signature of the Person that executed this Contract on behalf of Contractor, that all corporate action necessary to authorize Contractor's execution, delivery and performance of this Contract has been taken, and that this Contract has been duly executed and delivered by Contractor.

(d) Contractor has taken all requisite corporate action to approve execution, delivery and performance of this Contract. This Contract constitutes a legal, valid and binding obligation upon Contractor, enforceable against Contractor in accordance with its terms and conditions. The fulfillment of Contractor's obligations hereunder will not constitute a material violation of any existing applicable law, rule, regulation or order of any governmental authority. All necessary or appropriate public or private consents, approvals, permissions, agreements, licenses or authorizations have been obtained in timely manners which are necessary for Contractor to enter into and to perform its obligations under this Contract.

(e) There is no outstanding, pending or to the best of Contractor's knowledge, threatened, litigation, order, judgment, or Proceeding, involving or affecting this Contract, the Services, or Contractor's ability to perform its obligations under this Contract.

(f) To the best of Contractor's knowledge, no representation or warranty made by Contractor contained in this Contract and no statement by Contractor contained in, or information or documents delivered to DOC by Contractor in connection with, the Solicitation, the Response, or this Contract or otherwise supplied by Contractor to DOC

contains any untrue statement of a material fact or omits to state a material fact necessary to make such statements, information or documents, in light of the circumstance under which they were made, not misleading.

(g) This Contract is for the provision by Contractor of services, and not the purchase of hardware, software or other equipment or goods. In order to deliver the Services and perform its obligations under this Contract, neither DOC nor any State Entity must purchase any hardware, software, or other equipment or goods, and Contractor is not selling any of the same under this Contract. Contractor shall own all equipment. DOC shall have no ownership of the Contractor's and its Subcontractor's Equipment. All data on the Recording Media shall be owned and controlled by DOC.

Section 5.02 DOC'S REPRESENTATIONS AND WARRANTIES

DOC makes the following representations and warranties for the benefit of Contractor:

(a) DOC has the right, power and authority to enter into, and perform its obligations under this Contract.

(b) DOC has taken all requisite administrative action to approve execution, delivery and performance of this Contract. This Contract constitutes a legal, valid and binding obligation upon DOC, enforceable against DOC in accordance with its terms and conditions.

(c) The fulfillment of DOC's obligations hereunder will not constitute a material violation of any existing applicable law, rule, regulation or order of any governmental authority.

(d) There is no outstanding or pending litigation, order judgment, or Proceeding, involving or affecting DOC's ability to perform its obligations under this Contract.

PART VI. - COVENANTS

Section 6.01 CONTRACTOR'S PERSONNEL

General: Contractor shall exercise due care to choose and manage its personnel so that only suitably responsible, professionally competent, and disciplined representatives shall be operating in DOC facilities, many of which have sensitive and critical activities. Neither DOC nor any State Entity shall be responsible for any injury or other loss suffered by Contractor or Subcontractor personnel in a DOC facility arising out of a riot or hostage situation unless it is due to the gross negligence or willful acts or omissions of DOC, its employees or agents. Contractor personnel requiring access to DOC facilities shall be subject to background checks by DOC or other law enforcement agencies. Contractor will meet all requirements of Part 68, FCC Rules and Regulations (47 CFR 68) regarding affidavits and manufacturer's authority requirements for installer personnel. Contractor personnel seeking access to DOC facilities shall be subject to DOC policies and requirements regarding

background investigations, criminal convictions, and entrance to DOC facilities. The Parties acknowledge that it is DOC policy to require advance notice and advance clearance for entry into all DOC facilities.

Key Personnel: Contractor acknowledges and agrees that DOC and Contractor are entering into this Contract for critical services because of the Contractor's stated ability to provide the Services for offender phone service. Because of the need for DOC to be assured that Contractor's personnel are highly qualified and skilled in the special qualification areas pertaining to the Services, and have the ability to understand and be responsive to DOC needs, the Contractor in good faith will make every effort to meet DOC's needs in this Section.

As of the commencement of this Contract, Key Personnel are identified in Appendix 6.01.2 attached hereto.

Key Personnel shall not delegate long term or permanent performance of the management powers and responsibilities he/she is required to provide under this Contract to another (other) Contractor employee(s) without first obtaining the written consent of DOC.

Further, Contractor shall make every attempt to not re-assign or transfer any Key Personnel to other duties or positions such that the Key Personnel is (are) no longer available to provide DOC with his/her (their) expertise, experience, judgment, and personal attention, and will make every attempt to notify DOC prior to such re-assignment or transfer. In the event Contractor requests that DOC approve a re-assignment or transfer of any Key Personnel, DOC may, at Contractor's discretion, interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for such Key Personnel. DOC approval of changes in Key Personnel, when requested will not be unreasonably withheld.

Personnel Background Checks: Contractor warrants that it has appropriate procedures for screening employee criminal history and for addressing employee off-duty misconduct, including a criminal history screening process for all its employees, and has a process for reviewing employee off-duty misconduct. Contractor further warrants that any such screening procedures or processes are and shall be in compliance with all State and federal laws, including, but not limited to, the Fair Credit Reporting Act (15 U.S.C. Section 1681). Contractor's personnel who work on the Services will be subject to this screening and review process. Before beginning such work, Contractor shall submit to all of Contractor's personnel who are proposed to have access to DOC facilities written requests for permission to conduct background checks, including criminal history verification. If any such personnel refuse permission or elect to avoid participation in any such background check, at the option of DOC, Contractor will replace such Person with a qualified employee who is willing to participate in these background checks. In addition, DOC or other law enforcement agencies may, but are not obligated to, do background checks, including criminal history verification, on some or all of the Contractor's personnel proposed to have access to the DOC facilities. Without limiting the foregoing, any of Contractor's

personnel proposing to enter a DOC facility may be subject to a screening through the Washington State Patrol database, the results of which are acceptable to DOC in its sole discretion. If DOC conducts any such Washington State Patrol screening, DOC shall comply with the requirements of the Fair Credit Reporting Act, if applicable. Personnel with backgrounds deemed unsuitable by DOC will not be acceptable for support of these services, and Contractor will be requested to provide alternatives.

Criminal Convictions: If during the term of the Contract, it becomes known to Contractor that any of Contractor's personnel or applicant for employment by Contractor in connection with rendering the Services hereunder has had a criminal conviction, that information, with as much supporting detail as is reasonably available, will be submitted to DOC for review, and the personnel involved will be suspended from working on this Contract or, in the case of an applicant, will not be assigned by Contractor to work on this Contract. Such personnel may only resume work on this Contract or, in the case of an applicant, may only be assigned by Contractor to work on this Contract, if DOC grants express written permission.

Contractor Personnel: Should DOC expressly approve Contractor personnel with criminal records, and it becomes known to Contractor that a status change, such as violation of parole or probation term has taken place, it is the responsibility of Contractor to immediately notify DOC and seek written permission to continue use of subject personnel.

Failure to Notify: Without limiting the other remedies available to DOC for this or any other breach by Contractor under this Contract, should Contractor fail to notify DOC, when Contractor learns of the same, of personnel with criminal arrest or conviction records, or any status change, or be unable to provide suitable personnel, with respect to personnel working on DOC systems, DOC may terminate the Contract for cause under Section 10.01

Unacceptable Personnel Notification: DOC may notify Contractor when it finds any Key Personnel or other Contractor personnel, or proposed replacement therefore, unacceptable for any lawful reason relating to the provision of the Services, including but not limited to DOC's reasonable determination that he or she is not qualified to perform the work to which he or she is assigned. Upon receipt of such notice, Contractor shall within ten (10) business days review the matter with DOC and, unless otherwise agreed upon by the Parties, promptly transfer or otherwise remove such Contractor's personnel from working (or if a proposed replacement, not assign such Contractor's personnel to work) on the Services. Upon receipt of a notice from DOC that any Contractor personnel do not meet DOC requirements regarding entrance into any facilities of any correctional institution, such personnel shall be removed immediately from such facilities.

Subcontractor Personnel: The provisions of this Section, including but not limited to, Contractor's obligations hereunder, shall also apply to personnel of any Subcontractor in the same manner as applicable to Contractor.

Section 6.02 REGULATORY APPROVAL

If this Contract is now or in the future subject to the approval of applicable state or federal regulatory bodies, the Parties shall be relieved of their obligations thereunder if regulatory approval is denied; or, at the sole discretion of DOC, those parts of the Contract upon which the denial was based may be renegotiated and the Contract amended to reflect the result of those renegotiations. Without limiting the other remedies available to DOC for this or any other breach by Contractor under this Contract, if any regulatory approval required to allow Contractor to provide the Services and otherwise satisfy its obligations under this Contract is not received which causes Contractor to breach any obligation under this Contract, DOC may, at its sole discretion, terminate immediately this Contract and obtain service from another party. A decision to terminate the Contract under these conditions shall bear no penalty for DOC or any obligation by DOC to Contractor.

Where needed, Contractor must make every reasonable effort to obtain any required regulatory approval, including promptly responding to information and data requests from the regulatory body. Contractor shall fully cooperate with the Washington Utilities and Transportation Commission (WUTC). Contractor must promptly notify DOC of all actions taken to obtain such regulatory approval, including all formal filings or informal contacts with the applicable regulatory bodies related to this Contract. To the extent that it reasonably could assist Contractor in obtaining required regulatory approval, if any, of the Services to be rendered under this Contract, DOC shall make a good faith effort to cooperate with Contractor in making filings with applicable regulatory bodies. So long as Contractor uses all reasonable efforts to obtain any required regulatory approval, its failure to obtain such approval shall not be deemed a breach of this Contract.

Section 6.03 COMPLIANCE WITH APPLICABLE LAWS

Contractor shall comply with, and shall cause all Subcontractors to comply with, all federal, state and local laws, regulations, rules, executive orders and ordinances, whether now existing or hereinafter enacted, as the same may be amended or modified, in connection with the Services under this Contract or the performance of Contractor's obligations under this Contract. Without limiting the generality of the foregoing, Contractor agrees to comply with, and shall cause all Subcontractors to comply with: (i) the constitution of the State of Washington; (ii) all federal and state civil rights and rehabilitation statutes, rules and regulations, the Civil Rights Act of 1964 (78 Stat. 252), the Regulations of the Department of Health and Human Services issued according to that Act, and provisions of Executive Order 11246, Equal Employment Opportunity, dated September 24, 1965, as amended; (iii) Section V of the Rehabilitation Act of 1973; (iv) the Americans with Disabilities Act; (v) all applicable state and federal laws, local rules, regulations, and ordinances of cities, counties, municipalities, and local taxing districts, the National Electrical Code, Parts 15 and 68 of the FCC's Rules, and the rules, regulations, and tariffs of all authorities having jurisdiction over the Services to be installed and provided under this Contract (provided, however, that this does not relieve Contractor of the responsibility to comply with the Specifications if the

Specifications exceed the laws, regulations, and ordinances); (vi) the provisions of any federal, state, or local statutes, ordinances and regulations dealing with the prevention of environmental pollution and the preservation of natural resources that affect the provision of the Services under this Contract; (vii) the provision of State laws relative to prevailing wage rates; and (ix) all regulations and administrative rules established pursuant to the foregoing laws.

No claims for payment to Contractor or reduction in Commission paid to DOC will be approved for changes required to comply with codes, ordinances, laws, tariffs, and regulations in effect on the date hereof or enacted in the future, as the same may be amended or modified, which apply to the Services provided under this Contract. Contractor will not be responsible for changes required by existing or future codes, ordinances, laws, tariffs, or regulations which apply to the facilities at which the Services are provided (i.e., building, fire, safety and electrical codes).

Without limiting all other remedies available to DOC in connection with such breach, Contractor's or any Subcontractor's failure to comply with such requirements shall constitute a breach of contract and shall be grounds for termination of this Contract by DOC for cause. In addition to and without limiting all other remedies available to DOC in connection with such breach, Contractor shall be liable for any Loss resulting to DOC from such noncompliance.

Section 6.04 PERMITS

Contractor shall obtain and pay for all necessary permits, official licenses and inspections, certificates of authority, and other official approvals necessary for the provision of the Services under this Contract.

Section 6.05 RELEASE OF OPINIONS

Contractor acknowledges and agrees that DOC and its representatives reserve the right to provide their opinions publicly and privately to third parties regarding Contractor's performance under this Contract.

Section 6.06 INTELLECTUAL PROPERTY RIGHTS

Contractor warrants that the Services, and all products, Equipment and support related thereto, do not infringe upon, violate or result in the misappropriation of any United States or foreign patent, copyright or trademark, any trade secret, utility model, industrial design or mask work, or any other proprietary or intellectual property right of any third party. Provided that Contractor fully performs its obligations under this Section, the exclusive remedy for a breach of the foregoing warranty shall be the indemnification, defense and hold harmless provided herein below; provided, however, that this sentence shall not limit DOC's right to terminate this Contract and recover damages as described herein after.

Contractor shall indemnify, defend and hold harmless each and every Indemnified Party from any claim that the Services, or any product, Equipment or

support related thereto, infringes upon, violates or results in the misappropriation of any United States or foreign patent, copyright or trademark, any trade secret, utility model, industrial design or mask work, or any other proprietary or intellectual property right. All of the terms of Section 9.02 below shall apply to any such claim, including but not limited to, the obligation to notify Contractor of such claim.

Contractor shall be responsible for, and shall indemnify each Indemnified Party from, any and all losses suffered or incurred by DOC from any claim that the Services, or any product, Equipment or support related thereto, infringes upon, violates or results in the misappropriation of any United States or foreign patent, copyright or trademark, any trade secret, utility model, industrial design or mask work, or any other proprietary or intellectual property right. Without limiting the foregoing, Contractor shall pay all costs and expenses of the defense of any such claim, any settlement, and any costs, expenses and damages awarded by any court, arbitrator or other entity against any Indemnified Party.

If the use of any of the Services by DOC shall be prevented by preliminary or permanent injunction, DOC shall have the right to immediately terminate this Contract and to recover from Contractor all actual or general damages and costs suffered or incurred by DOC in connection with such matter, including, but not limited to, all costs and expenses of DOC in obtaining replacement services for such Service and all attorney's fees and costs.

Contractor has no obligation for any claim of infringement arising from:

(i) Contractor's compliance with any designs, specifications or instructions of DOC; or

(ii) Modification of the Services by someone other than Contractor or as called for by Appendix 2.01 by DOC.

Section 6.07 DOC DATA / WORK PRODUCT

DOC Data: During the Term of this Contract, Contractor shall own all Equipment, including the Recording Media, and DOC shall have no ownership of Contractor's or any Subcontractor's Equipment. To the extent that any Recording Media is in the possession of Contractor or any Subcontractor, DOC personnel shall have sufficient access to the data thereon to enable them to retrieve information for security and investigative purposes. Both before and after installation of Contractor's and any Subcontractor's Equipment, all risk of loss, or damage to, the Equipment shall be on Contractor and DOC shall bear no risk of loss regarding the Equipment, unless such loss is due to the negligent or willful acts or omissions of DOC, its employees, customers or agents.

DOC shall own and hold all rights with respect to the data contained on the Recording Media. DOC shall provide a secure environment for the Recording Media in its possession and shall use due care in processing and handling the Recording Media

in DOC's possession. All risk of loss, or damage to, the Recording Media and the data contained thereon (including any information that is corrupted, lost, damaged, or cannot be accessed) shall be on DOC and Contractor shall bear no risk of loss regarding the Recording Media and the data thereon, unless such loss is due (i) to the negligent or willful act of omission by Contractor, a Subcontractor, or their employees or agents, (ii) to a defect in the Recording Media not caused by DOC (e.g., DAT tape not properly formatted), or (iii) to a malfunction or defect in the Monitoring and Recording Systems equipment or software.

Section 6.08 INSURANCE

Except as otherwise set forth herein or agreed to in writing by DOC and Contractor, Contractor agrees to maintain adequate and customary coverage for Workers' Compensation, Commercial General Liability, Automobile Liability, and list the DOC and State as an additional insured on its Certificate of Insurance which must be provided to the DOC on an annual basis. Contractor shall cause all Subcontractors to maintain insurance which is typically maintained by companies engaged in such business as providing the Services, provided further that such insurance shall be of such types, in such amounts, with such terms and conditions and with such insurers as are acceptable to DOC. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, property insurance covering all risks, including fire, covering the Equipment, insuring at least the replacement value of the Equipment. All insurance policies called for by this section shall contain waivers of subrogation clauses acceptable to DOC.

Section 6.09 PROJECT MANAGEMENT

By prior written notice to DOC, Contractor shall name and make responsible for the provision of offender phone services, a competent manager, and with such other qualifications as DOC may request ("Manager"), who shall be Contractor's single point of contact and represent Contractor in connection with the scheduling, delivery and general provision of the Services to be rendered under this Contract. Contractor may change the Manager by written notice to DOC of such change. DOC may reject or request a replacement for the Manager(s) for cause upon mutual agreement between the Parties, and Contractor may comply with DOC's request.

Section 6.10 INDEPENDENT STATUS OF CONTRACTOR/NO PARTNERSHIP

Any statements to the contrary contained in this Contract, the Solicitation or the Response notwithstanding, (i) the Services to be rendered under this Contract are those of an independent contractor, (ii) Contractor is not an officer or employee or agent of DOC, (iii) the Parties will be acting in their individual capacities and not as agents, employees, partners, joint venturers, or associates of one another, (iv) no partnership or joint venture between Contractor and DOC, or any other State Entity is created by this Contract, and (v) the employees or agents of one Party shall not be deemed or construed to be the employees or agents of the other Party for any purpose whatsoever.

Section 6.11 SUBCONTRACTOR'S AUTHORITY

Contractor shall be responsible to DOC for the acts and omissions of all Subcontractors and of Persons directly or indirectly employed by them, including, but not limited to, the quality and quantity of all work performed by all Subcontractors and all persons directly or indirectly employed by them, and for the acts and omissions of Persons employed directly by Contractor for satisfactory performance under this Contract.

On the date hereof, the Subcontractors under this Contract are those Persons listed on Appendix 6.11 attached hereto. Contractor shall provide to DOC at least thirty (30) days written notice prior to the effective date of start of work for a new Subcontractor or the addition of any new Subcontractor or change in any Subcontractor from those listed on Appendix 6.11. DOC shall not unreasonably or without cause withhold approval of the requested change. DOC shall have the right to request that Contractor use some other Subcontractor. DOC may, but is not required to, request reasonable information, similar to that required of Contractor, to assess the acceptability of any new Subcontractor or change in Subcontractor. Such information shall include, without limitation, complete and accurate copies of all proposed subcontracts between Contractor and any new Subcontractor. Request by DOC for removal of a Subcontractor shall not be grounds for changing Contract pricing. Any obligation of Contractor, including, but not limited to, obligations of Contractor to its employees, independent contractors or personnel, contained in this Contract shall be deemed to include an obligation by Contractor to cause all Subcontractors to comply with the same obligation as if the Subcontractors were named as "Contractor" under this Contract.

Section 6.12 CONFORMITY TO SPECIFICATIONS

The Services provided shall be in strict conformity with the Specifications and with such instructions as shall from time to time be given by DOC and mutual agreement between the Parties. If the instructions and Specifications contained in this Contract, all Written Authorizations, and all exhibits and attachments hereto and thereto are not sufficiently clear to permit Contractor to proceed with installing or providing the Services, DOC will, either upon its own motion or upon request from Contractor, furnish additional instructions, together with such additional Specifications as may be necessary. When Contractor makes such request, it must be made in ample time to permit the preparation of the instructions and Specifications before the information is required by Contractor to meet the implementation schedule. Such additional instructions and Specifications shall be consistent with this Contract, all Written Authorizations, and all exhibits and attachments hereto and thereto, and shall have the same force and effect as if contained in this Contract, all Written Authorizations, and all exhibits and attachments hereto and thereto.

Section 6.13 COORDINATION WITH OTHERS

Contractor shall coordinate the installation, testing, and acceptance of the Services with DOC and its other contractors, and they shall coordinate their work with

Contractor's work so as to facilitate the installation, testing, cutover, and provision of the Services. Contractor shall be responsible for all means, methods, techniques, sequences, and procedures, and for coordinating all portions of the work under this Contract. Contractor shall work cooperatively and professionally with DOC and its other telecommunications contractors, including consultants, with regard to interfacing, installing, testing, cutover, fault isolation, and repair of operating deficiencies in the Services.

Section 6.14 BUILDING AND FACILITY ACCESS

Contractor will be responsible for keys, if provided by DOC, and Contractor and its personnel shall have access to DOC buildings and facilities. In order to be furnished keys and other necessary access arrangements, Contractor personnel will be required to comply with any reasonable access requirements. Contractor personnel seeking access to DOC facilities shall comply with all DOC requirements regarding entrance to those facilities, including but not limited to requirements that such personnel make advance arrangements with the DOC institution to be visited and be escorted by DOC personnel while in DOC facilities. Based on safety considerations and security of DOC staff and personnel of Contractor, DOC shall have the right to deny access in its sole discretion. For purposes of determining Contractor's performance under this Contract, such denial of access shall be considered a Force Majeure Event (as discussed in Section 11.12), except if such denial of access is caused by a failure by Contractor to provide reasonable advance notice to DOC seeking access or to comply with any other reasonable access requirements.

Section 6.15 CONTRACT MANAGER AND EXECUTIVE REVIEW

Contract Manager: DOC shall assign a Contract Manager to be the first point of contact regarding any and all issues pertaining to this Contract. Contractor shall assign a singular management Person as the Contract Manager to be the first point of contact regarding any and all issues pertaining to this Contract (except for those areas under the Manager(s)' responsibility described in Section 6.11). The initial Contract Managers are as follows:

DOC Contract Manager: Don Willbrecht.

Contractor's Contract Manager: Joanna Howard

Each Party may change its Contract Manager by written notice to the other Party of such change.

Dispute Resolution Panel: Should a dispute regarding this Contract arise, it shall first have been addressed at the Contract Manager level, and if found to be unresolvable, it must then be submitted to a panel composed of two executive level principals from each Party (the "Dispute Resolution Panel"). At least one principal from each Party shall be of senior management level, neither principal shall be the Contract Manager, and one or more will have the authority to enter into an agreement resolving

the dispute. The principals shall meet within ten (10) days of receipt of a written request by either Party in an effort to settle the dispute. The Parties may agree to include any third parties in these negotiations and to implement any other procedures or rules that they mutually agree will benefit the resolution process. Should this step of dispute resolution be unsuccessful, the Parties shall submit the dispute to mediation as set forth in Part XI.

Section 6.16 EQUIPMENT

FSH will provide offender telephones as described in its proposal over the course of the contract. FSH offender equipment standards are to provide offender telephones within a facility in one of the following manners: secured to a wall; secured to a wall with a writing shelf; secured to pay telephone pedestal or stand alone enclosure. In all cases the installation will be done in such a manner that the material will not be easily removed through normal wear and tear; and will be replaced at any time should there be a material breakdown of equipment or offender telephone instrument. It is understood that FSH stocks the offender telephones and enclosures described herein and in the proposal; and as such are considered FSH Standard. Any request for customized equipment will be discussed between the parties to assess the cost impact to FSH or the State.

Contractor shall own all Equipment and Recording Media. DOC shall have no ownership of the Contractor's and its Subcontractor's Equipment. All data on the Recording Media shall be owned and controlled by DOC.

Section 6.17 DOC PROVIDED EQUIPMENT AND FACILITIES

DOC will provide at its own expense certain equipment and facilities to support the Services covered by this Contract e.g. adequate floor space, wire cable and conduit, electricity (in the proper voltage), wall space, and support structures; provided, however, that such DOC provided equipment and facilities shall be limited to those items of equipment and facilities, if any, identified in the Response and mutually agreed in writing to be the responsibility of DOC before execution of this Contract, or as agreed to herein. If DOC, in its sole discretion, elects in writing to provide such equipment and facilities, DOC will assume responsibility for providing it unless otherwise agreed. Should additional requirements for DOC provided equipment and facilities for the Services arise beyond that which DOC elects in writing to be responsible for, the Parties will negotiate how the additional costs will be handled.

The Parties may, by mutual agreement, maximize capacity and functionality of equipment, facility and infrastructure activities such as installation of wiring through collaboration in planning and sharing of costs.

Section 6.18 DOC COVENANTS

DOC agrees to:

(a) Provide appropriate cable and wiring support infrastructure, electric power (proper voltage, as required) and adequate wall space to mount offender phones. In the event DOC is not the owner of the premises, DOC will, where necessary, obtain permission from the building owner or owner's agent for the placement of offender phones, and shall be responsible for any fees for use of required riser cable and electrical power. Access to offender phones by offenders shall be available at such times, as DOC shall determine in its sole discretion.

(b) Maintain the area around the offender phones ensure safe and ready access by the offenders or Contractor's personnel.

(c) Allow Contractor access to perform maintenance during the established business hours of accessibility agreed to by DOC and Contractor, except where accessibility must be denied to ensure the safety of Contractor personnel and/or to maintain institutional control.

(d) Upon proper prior notification from Contractor following DOC guidelines, DOC shall provide adequate and timely escort service for Contractor and Subcontractors for DOC facilities.

(e) Be responsible for providing, at its expense, any necessary equipment required to allow Contractor or Subcontractors the ability to provision dial tone or workstation connectivity over DOC provided fiber. This equipment may include media converters, multiplexers or other ancillary equipment.

(f) Notify Contractor in advance of anticipated new or remodel facility project to ensure that the desired Offender Phone equipment and services are appropriately located in, and configured for, the location. It is understood that standard equipment, as described in Appendix 1.01 Definitions – Equipment, will be installed at existing or anticipated facilities during the contract term. Requests for customized equipment will be discussed between the Parties; provided that the Parties mutually agree that such customized equipment does not materially increase Contractor's costs of rendering the Services.

(g) As the DOC intends to utilize its own state-owned workstations, at a future date when the state's Information Technology organization completes its upgrade of internal systems and infrastructure; until such time as said state-owned workstations are functional FSH will provide the DOC with approximately thirty-three (33) workstations for their use to access the Focus 100 system. Workstations come equipped with the necessary hardware and software to enable access and use of the Focus 100 system. Each workstation will include a monitor, printer, UPS (uninterrupted power supply), headphones and CD burner. The workstations will be returned to FSH in satisfactory condition, less normal wear and tear, and must be returned in the same configuration as supplied (e.g. if workstation is provided with a flat panel monitor, same monitor must be returned with the workstation).

Section 6.19 EMERGENCIES

In an Emergency where there is potential loss of life or danger of destruction of property Contractor shall immediately contact the DOC responsible for the facility related to the affected Service, via telephone, paging and confirmatory email or fax. In an Emergency where there is a potential danger of destruction of a material portion of Contractor's Equipment, the DOC located shall notify Contractor, as soon as reasonably possible, of such Emergency, if DOC is aware of such Emergency, via telephone, paging and confirmatory email or fax. In the event of an Emergency, Contractor will make every attempt to fix the problem within four (4) hours or sooner of the problem being reported to Contractor as an Emergency.

Section 6.20 RECORDS MAINTENANCE/ ACCESS

Contractor shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance hereunder. Contractor acknowledges and agrees that DOC the Washington State Auditor's Office, the Federal Government, and their duly authorized representatives shall have access to such fiscal records and to all other books, documents, papers, plans and writings of Contractor that are pertinent to this Contract for the purpose of performing examinations and audits, and making excerpts and transcripts. All such fiscal records, books, documents, papers, plans, and writings shall be retained by Contractor and kept accessible for a minimum of six (6) years following final expiration of the term of this Contract and all extensions, except as required by law to be held longer, following final payment and termination of this Contract and all extensions, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever is later. Contractor shall make these records available to DOC, the Washington Auditor's Office, the Federal Government, and their duly authorized representatives for inspection at Contractor's designated facility upon thirty (30) days written notice to Contractor of such intention, provided, however, that Contractor shall deliver to requesting entities or persons, within such thirty (30) days; those records that are necessary to determine compliance with Contractor's obligations under this Contract.

Section 6.21 ASBESTOS AND HAZARDOUS SUBSTANCES

DOC shall, in good faith, disclose to Contractor any known asbestos or other hazardous substance at any location where Contractor is providing Services under this Contract. If Contractor discovers hazardous substances at any DOC facility, Contractor may suspend the performance of the related Services at such facility until removal or containment of such hazardous substances has been completed and approved by the appropriate governmental agency, or until such agency has confirmed that no such removal or containment is necessary. Contractor's performance obligation shall be extended to the extent any delay is caused by clean up or removal of hazardous substances. In no event shall Contractor be responsible for the removal of hazardous

substances found on any site where Contractor shall be required to perform Services. As between Contractor and DOC, any such removal shall be the responsibility of DOC.

Section 6.22 DOC ACCESS TO OFFENDER CALL RETRIEVAL AND PLAYBACK EQUIPMENT AFTER EXPIRATION OR TERMINATION OF CONTRACT

Six (6) months following the expiration of the Term of this Contract, DOC shall have access and use, at no cost to DOC, of appropriate equipment for handling, retrieving, playing back, and recording preexisting offender call message activity. However, if DOC deems it necessary to have access and use to equipment for handling, retrieving, playing back and recording preexisting offender call message activity the DOC will be responsible for any maintenance or repair costs provided that DOC shall select and engage the vendor(s) to conduct any such maintenance or make any such repairs. Upon expiration of such the six (6) month period Contractor at its expense will collect the components.

Within ninety (90) days following the expiration of the Term of this Contract, DOC shall take possession and control of the Recording Media and shall be solely responsible for the handling, transportation and storage thereof.

Section 6.23 TRANSITION RESPONSIBILITIES OF CONTRACTOR

Upon expiration or termination of this Contract, should DOC award any succeeding contract for offender telephone service to a vendor other than the Contractor, Contractor agrees to cooperate fully and in all respects with DOC and the new contracted vendor in accomplishing an efficient and effective transfer of responsibilities.

PART VII. - WARRANTIES AND PERFORMANCE GUARANTEES

Section 7.01 General Warranty

Contractor warrants that the Services, the Equipment and all software used in rendering the Services shall conform to the requirements contained in this Contract and the Solicitation, including, but not limited to, the Specifications, the relevant Written Authorization(s), and all exhibits and attachments hereto and thereto, and shall be performed in a professionally diligent manner by qualified personnel ("Satisfactory Work"). In addition to and without limiting any other warranty contained in this Contract, the Services shall conform to the Specifications described in the Responses and all attachments thereto. Contractor warrants that the Services and the use of the Equipment shall meet the manufacturer's and vendor's specifications. Contractor also warrants that (i) the Services, the Equipment, and all software used in the rendering of Services, contains no computer instructions, circuitry or other technological means whose purpose is to disrupt, damage or interfere with DOC's use of its computer or telecommunications, system or facilities, and (ii) the Services, the Equipment and all software used in rendering of the Services will be installed and will perform in a manner

that will not disrupt, damage or interfere with DOC's or any State Entity's use of its computer or telecommunications systems or facilities.

Section 7.02 EQUIPMENT

In addition to and without limiting the other warranties contained in this Contract, (i) the Equipment shall be in good working order and will conform to Contractor's official published specifications, and (ii) all Equipment shall be new or "Like-New", except for Equipment already in place and previously installed under prior contracts between DOC and Contractor.

In addition to and without limiting any other warranty contained in this Contract, the Equipment shall conform to the Specifications described in the Solicitation, the Response and this Contract (including, but not limited to, the Specifications contained in Appendix 2.01 to this Contract). The foregoing notwithstanding, if there exists any conflict among the Specifications contained in (i) the Response, (ii) the Solicitation, or (iii) this Contract (including, but not limited to, the Specifications contained in Appendix 2.01 to this Contract), in addition to and without limiting any other warranty contained in this Contract, the order of precedence to resolve such conflict shall be the following: (1) this Contract (including, but not limited to, the Specifications contained in Appendix 2.01); (2) the Solicitation; then (3) the Response. Any such conflict will be resolved by using the terms most favorable to DOC.

Section 7.03 GRADE OF SERVICE WARRANTY

In addition to and without limiting the other warranties described in this Contract, Contractor warrants that the Services provided under this Contract will be at a minimum of P.01 Busy Hour grade of service and otherwise will be provided and performed in accordance with all applicable standards of performance established by the Specifications, this Contract, the Solicitation, the WUTC, and the FCC.

PART VIII. - REMEDIES

Section 8.01 LIQUIDATED DAMAGES AND OTHER REMEDIES

Contractor and DOC agree that, upon notification by DOC to Contractor of the occurrence of any breach by Contractor described in paragraphs (i) through (iii) of Section 8.01, DOC shall be entitled to collect from Contractor, and Contractor shall be obligated to pay to DOC certain dollar amounts described below (the "Liquidated Damages"), and DOC shall be entitled to the other remedies described below. Contractor and DOC recognize that it would be difficult to prove damages in the event of such breaches. Contractor and DOC agree that (a) the Liquidated Damages are reasonable in light of the difficulties of proof of loss, the anticipated harm caused by such breaches, and the inconvenience and unfeasibility of DOC otherwise obtaining an adequate remedy, (b) the Liquidated Damages represent an estimated amount of the projected loss or damages that will be suffered by DOC in connection with such breaches and are not a penalty, and (c) they have reviewed this section with their

respective legal counsel, understand its significance, and have specifically negotiated its terms.

(i) Excluding Force Majeure Events, in the event that Contractor breaches its obligation to install within an agreed upon time period required under Section 2.01 or repair, or restore working telephone service for, any offender Phone or install, repair or restore three-way call detection and call disconnection or call blocking capability, and Contractor does not cure such breach within 10 days of such breach Contractor shall pay to DOC the sum of \$21.21 per day per affected Offender Phone, for each day that such breach is not cured. Without limiting the foregoing, if Contractor does not cure any such breach within twenty (20) days of such occurrence, DOC shall have the right, in addition to the right to collect the amounts described in the prior sentence, to immediately terminate this Contract.

(ii) Excluding Force Majeure Events, in the event that Contractor breaches its obligation to provide (a) Monitoring and Recording Services with respect to Offender phones, or (b) call information retrieval and search capabilities at each institution, the entire Monitoring and Recording System at that location will be deemed to be inoperative. If Contractor does not cure such breach within four (4) hours after the subject problem is reported to Contractor, Contractor shall pay DOC the sum of \$2,500 per day for each day that the breach is not cured or reasonably responded to with corrective action plan. Without limiting the foregoing, if Contractor does not cure any such breach within five (5) days of such occurrence, DOC shall have the right, in addition to the right to collect the amounts described in the prior sentence, to immediately terminate this Contract.

(iii) Excluding Force Majeure Events, in the event that Contractor breaches its obligation to provide networked access to the Monitoring and Recording System at an institution, the entire Monitoring and Recording System at that location will be deemed to be inoperative. If Contractor does not cure such breach within five (5) days of such breach, Contractor shall pay DOC the sum of \$2,500 per day for each day that the breach is not cured. Without limiting the foregoing, if Contractor does not cure any such breach within ten (10) days of such occurrence, DOC shall have the right, in addition to the right to collect the amounts described in the prior sentence, to immediately terminate this Contract.

The time periods after a breach before which Liquidated Damages or termination rights apply as described in this Section 8.01 shall control, regardless of any other due dates contained in this Contract or the appendices hereto.

For any other breach of any of Contractor's obligations under this Contract not described in paragraphs (i) through (iii) of Section 8.01 above, DOC shall be entitled to all remedies available under applicable law or in equity, including, but not limited to, the right to terminate this Contract and to recover from Contractor all actual damages and costs suffered or incurred by DOC and any State Entity in connection with such matter, including, but not limited to, all costs and expenses of DOC in obtaining replacement services for the Services and all attorney's fees and costs.

Notwithstanding the foregoing, nothing contained herein shall limit Contractor's liability for personal injury and damage to property caused by Contractor's negligence or tortuous act.

Section 8.02 ADDITIONAL REMEDIES

The remedies described in paragraphs (i) through (iii) of Section 8.01 above are the exclusive remedies. If DOC with respect to the specific breaches described in such paragraphs, provided, however that (i) if DOC is entitled to recover any Liquidated Damages, and Contractor does not pay the same to DOC, and in connection with DOC's enforcement of its rights, a court or other forum determines that such Liquidated Damages are unenforceable (other than a finding that the breach underlying the obligation to pay such Liquidated Damages did not occur), Contractor agrees that DOC, as applicable, shall be entitled to recover any and all actual and consequential damages (including lost Commission) suffered or incurred by DOC and any other State Entity in connection with such underlying breach, (ii) DOC shall be entitled to set off from any amounts DOC owes under this Contract any undisputed Liquidated Damages, other damages or other amounts owed by Contractor under this Contract, and (iii) DOC shall be entitled to all equitable remedies available, including, but not limited to, specific performance.

Section 8.03 CONSEQUENTIAL DAMAGES

Except as provided in Section 8.02, DOC shall not be entitled to recover consequential damages (including, but not limited to, lost profits) from Contractor for any breach under this Contract, and Contractor shall not be liable for any lost revenues, lost profits, lost savings or other consequential damages, arising out of any failure to perform its obligations under this Contract. Contractor shall not be entitled to recover consequential damages (including, but not limited to, lost profits) from DOC for any breach under this Contract, and DOC shall not be liable for any lost revenues, lost profits, lost savings or other consequential damages, arising out of any failure to perform its obligations under this Contract.

PART IX. - INDEMNITY, LIABILITIES AND RESPONSIBILITIES

Section 9.01 INDEMNITY

Contractor shall indemnify, defend, and hold harmless each and every Indemnified Party from, against and in respect of any and all loss suffered or incurred by reason of or arising out of (1) any negligent act or omission, or willful misconduct, by Contractor, any Subcontractor, any of their officers, agents or employees, or (2) any breach of any representation or warranty, or non-fulfillment of any covenant or agreement, by Contractor contained in this Contract.

Section 9.02 INDEMNIFICATION NOTICE

The DOC shall give notice to Contractor within twenty (20) days after it has actual knowledge of any third-party claim as to which indemnity may be sought

Section 9.03 PERSONAL LIABILITIES OF PUBLIC OFFICIALS

In carrying out the provisions of this Contract or authority granted by this Contract, Contractor understands and agrees there will be no liability upon the employees or officers of DOC, either personally or as officials of DOC, it being always understood that in such matters they act as the agents and representatives of DOC.

Section 9.04 SURVIVAL

Contractor's obligations under Sections 6.01.2 (Key Personnel), 6.01.3 (Personnel Background Checks), Part VIII (Remedies), Part IX (Indemnity, Liabilities and responsibilities) and Part XI (Miscellaneous) shall survive the termination (regardless of the cause of termination) or expiration of this Contract.

PART X. - TERMINATION

Section 10.01 DOC RIGHT TO TERMINATE FOR CAUSE

DOC may terminate this Contract immediately upon notice to Contractor, or at such later date as DOC may establish in such notice or as required under paragraph (h) of Section 10.01, without any liability of DOC to Contractor, upon the occurrence of any of the following events:

- a) Federal or state laws, regulations or guidelines are modified or interpreted in such a way that DOC's performance under this Contract or any Written Authorization is prohibited;
- b) Contractor's failure to make any necessary FCC, WUTC or other regulatory filing within ten (10) days of the date hereof or obtain any necessary FCC, WUTC or other regulatory approval within thirty (30) days of the date hereof;
- c) Contractor no longer holds any license or certificate that is required to perform the Services;
- d) Any proceeding is commenced which challenges this Contract or the Services hereunder, or an injunction or other order is issued which prohibits, limits, or modifies the performance of this Contract or the Services under this Contract;
- e). Any Change of Control Contractor occurs, for which DOC has not given prior written consent, which consent shall not be unreasonably withheld by DOC;
- f) Any event occurs for which any section of this Contract, including but not limited to, Section 8.01, permits DOC to terminate this Contract;
- g) At any time during the term of this Contract, any of the Services deteriorates or does not meet the Specifications; or

h) Contractor commits any material breach or default of any representation, warranty, covenant, indemnity or other obligation or agreement under this Contract (including, but not limited to, failure to provide the Services under this Contract within the time specified herein or any extension thereof), or fails to pursue a Written Authorization as to endanger Contractor's performance under this Contract in accordance with its terms and conditions, which breach, default or failure is not covered by any of clauses (a) through (h) above, and such breach, default or failure is not cured within thirty (30) calendar days after delivery to Contractor of notice of the same by DOC, or such longer period as DOC may specify in such notice.

In addition to, and cumulative of, any other remedy available to DOC at law or in equity, (i) if DOC terminates this Contract under this section and is required to install the same or similar Services from another source, Contractor shall be liable to DOC for all costs and expenses to DOC of obtaining and installing the replacement Services, including, but not limited to administrative and legal costs and expenses, and (ii) Contractor shall be liable for any and all actual damages suffered by DOC as the result of Contractor's breach of this Contract.

This Section shall not authorize DOC to terminate this Contract in order to acquire functionally equivalent equipment from a third party.

Section 10.02 DOC's RIGHT TO CANCEL SERVICES

In addition to and without limiting DOC's rights to terminate this Contract in full under any other section of this Contract, if Contractor fails to perform any material obligation under this Contract, and thirty (30) calendar days after receipt of written notice describing with reasonable particularity the character of the default Contractor has not cured the failure, then DOC may cancel Services under this Contract which, relate to the performance, without penalty, until such failure to perform is cured or finally adjudicated. This remedy shall be in addition to, and cumulative of, any other remedy available to DOC, and the exercise of this remedy by DOC shall not prejudice or impair the availability to DOC of any other remedy at law or in equity for breach of this Contract.

Section 10.03 TERMINATION FOR INSOLVENCY

Either Party may terminate this Contract immediately if the other Party: (i) institutes or has instituted against it insolvency, receivership, or bankruptcy proceedings; (ii) is adjudged bankrupt, or makes an assignment for the benefit of creditors, or a receiver is appointed on account of such Party's insolvency; or (iii) ceases doing business on a regular basis.

Section 10.04 TERMINATION FOR CONVENIENCE

After initiation of any of the Services, DOC may terminate this Contract, in whole or part, for its convenience under the following conditions by providing notice of such termination to Contractor, specifying the extent and effective date of such termination:

10.04.1 Withdrawal by the legislature of the statutory authority of the Secretary to operate the correctional facilities covered under this Contract or the offender phone program; or

10.04.2 Reduction of allotments by the Governor pursuant to RCW 43.88.110(2); or

10.04.3 Reduction by the legislature of appropriated funds or

10.04.4 When, in the opinion of the Secretary, continuation of the Contract would seriously disrupt or prevent substantial performance of the operations or activities of the Department and the Secretary has stated, in writing, to the Contractor the need to terminate the Contract in whole or in part.

On the specified termination date, Contractor shall (i) stop work under this Contract to the extent specified in the termination notice, and (ii) cease shipment and delivery of all Services, goods, Equipment, and software covered by the termination notice, other than those already delivered and accepted in accordance with this Contract as of the termination date specified in the termination notice. Contractor shall continue to perform those obligations under this Contract to the extent not terminated. DOC shall not have any liability for DOC's termination of this Contract in whole or in part under this section.

Section 10.05 NOTICE OF TERMINATION

In the event either Party elects to terminate this Contract, termination shall be effected by delivery via Certified mail, RETURN RECEIPT REQUESTED, to the other Party of a Notice of Termination specifying the extent to which the Contract is terminated, the reasons for such termination and the date upon which such termination becomes effective.

Section 10.06 EFFECT OF TERMINATION

Within ninety (90) days following the termination of this Contract for any reason whatsoever, DOC shall take possession and control of the Recording Media and shall be solely responsible for the handling, transportation and storage thereof

Section 10.07 NON-PREJUDICE FOR TERMINATION

DOC's termination of this Contract shall be without waiver of prejudice to any other remedy available to DOC in connection with this Contract.

PART XI. - MISCELLANEOUS

Section 11.01 GOVERNING LAW, JURISDICTION, VENUE

This Contract shall be governed and construed in accordance with the laws of the state of Washington, without resort to any jurisdiction's conflict of laws, rules or doctrines. Any Proceeding between DOC and Contractor that arises from or relates to

this Contract shall be brought and conducted solely and exclusively within the Superior Court of Thurston County for the State of Washington. Provided, however, if a Proceeding must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the Western District of Washington. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

Section 11.02 RESOLUTION OF DISPUTES

Mediation: Each Party agrees not to institute any Proceeding in connection with this Contract until the Parties shall have attempted in good faith to submit the matters in dispute to a non-binding mediation process. Submission of the dispute to mediation shall not be a precondition to any action or proceeding involving temporary or emergency relief, or the enforcement of this clause itself.

Choosing a Mediator: If a dispute arises under this Contract the Parties shall discuss the desired qualifications of the mediator. Either Party may suggest one or more candidates, or may recommend that the mediator be chosen from a roster. The mediator must be selected by agreement of both Parties. Each Party shall promptly disclose to the Other Party any circumstances, which would cause reasonable doubt regarding the impartiality of the individual under consideration or appointed as mediator. Any such individual shall promptly disclose any such circumstances to the Parties. If any circumstances have been disclosed, before or after the individual's appointment as mediator, the individual shall not serve, unless the Parties agree.

Mediator Compensation: The mediator's compensation rate will be determined at or before his or her appointment. Such compensation, and any other costs of the mediation, will be shared equally by the Parties, unless otherwise agreed.

Mediation Ground Rules: The ground rules for the mediation shall be:

- a) The process is voluntary and non-binding. Either Party may withdraw at anytime by notifying the mediator and the other Party in writing of its intent to withdraw.
- b) The mediator shall be neutral and impartial.
- c) The mediator controls the procedural aspects of the mediation. The Parties will cooperate fully with the mediator.
- d) There will be no direct communication between the Parties or between their attorneys regarding the matter in dispute without the concurrence of the mediator.
- e) The mediator is to meet and communicate separately with each Party.
- f) The mediator will decide when to hold separate meetings with the Parties and when to hold joint meetings. The mediator will fix the time and place of each session and the agenda, in consultation with the Parties.

g) Each Party may be represented by more than one Person, e.g., a staff member and an attorney. To the fullest extent possible under the law, at least one representative of each Party will be authorized to negotiate a settlement of the dispute.

h) The process will be conducted expeditiously. Each representative will make every effort to be available for meetings.

i) The mediator will not transmit information given to him or her by either Party to another party, unless authorized to do so.

j) To the fullest extent authorized or permitted by the law, the entire process will be confidential. The Parties and the mediator will not disclose information regarding the process, including settlement terms, to third parties, unless the Parties otherwise agreed or unless required by law to do so. The process shall be treated as a compromise negotiation for the purposes of the Federal Rules of Evidence and Washington Evidence Code. The mediator will not be disqualified as a witness, consultant or expert in any pending or future action relating to the subject matter of the mediation including those between Persons not parties to the mediation.

k) The mediator, if a lawyer, may freely express his or her views to the Parties on the legal issues of the dispute, unless a Party objects to him or her so doing.

l) The mediator may obtain assistance and independent expert advice with the agreement of and at the expense of the Parties.

m) The mediator will not be liable for any act or omission in connection with his or her role as a mediator.

n) The Parties will refrain from court proceedings during the mediation process, insofar as they can do so without prejudicing their legal rights. If litigation is pending between the Parties regarding the subject matter of the mediation, the Parties may agree to inform the court of the mediation process and the name of the mediator, and they may request a stay of court proceedings. Insofar as possible, discovery will be suspended while mediation is ongoing.

Preliminary Meetings: Once a mediator is selected, the Parties will meet jointly with the mediator to discuss the above ground rules and any different or additional ground rules the mediator or either Party wishes to propose. The Parties and the mediator may agree on whether the Parties will be the first to make settlement proposals, or whether they wish the mediator to make such a proposal once he or she has familiarized herself with the dispute.

Submission of Material: Upon entering into mediation each Party shall submit to the mediator such material and information as it deems necessary to familiarize the mediator with the dispute. The mediator may request any Party to provide clarification and additional information. The mediator may request each Party, separately or at a joint meeting, to present its case informally to the mediator.

Negotiation of Settlement Terms: Once the mediator has familiarized himself or herself with the case, he or she will hold discussions with the representatives of the Parties. The mediator will decide when to meet or confer separately with each Party, and when to hold joint meetings. The mediator may assist the Parties in arriving at a settlement in a variety of ways.

If the Parties fail to develop mutually acceptable settlement terms, the mediator, before terminating the procedure, may submit to the parties a final settlement proposal that he or she considers equitable to all Parties. The Parties will carefully consider such proposal and at the request of the mediator will discuss the proposal with him or her. Efforts to reach a settlement will continue until (a) a settlement is reached, or (b) one of the Parties withdraws from the process, or (c) the mediator concludes and informs the Parties that further efforts would not be useful.

If a settlement is reached, the mediator, or one of the Parties at the mediator's request, will draft a written settlement document incorporating all settlement terms. The draft will be circulated among the Parties, edited as necessary, and if acceptable, formally executed.

Section 11.03 SEVERABILITY

If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected; and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

Section 11.04 TIME

Time is of the essence in this Contract.

Section 11.05 ASSIGNMENT

Except as otherwise provided herein, without the prior written consent of DOC (which shall not be unreasonably withheld), Contractor shall not assign, delegate or transfer its rights, duties, or obligations under this Contract to any Person or entity, in whole or in part, whether by assignment, merger, transfer of assets, sale of stock, operation of law or otherwise. Notwithstanding the foregoing or the provisions of Part X (Termination) above, Contractor may assign its rights hereunder to a parent, subsidiary or affiliate without DOC's consent; provided that (i) the assignment does not increase the obligations of DOC regarding this Contract, (ii) such assignee or transferee shall be subject to all defenses of DOC under this Contract, (iii) such assignee or transferee shall be responsible for all of Contractor's obligations under this Contract, and (iv) Contractor shall not be released from its obligations under this Contract and Contractor shall remain primarily liable for all of its obligations under this Contract as if no assignment had occurred. Any attempt by Contractor, except as provided herein, to assign or in any way transfer its interest in the Contract without such prior written consent of DOC shall be deemed a material breach of this Contract. Written requests

for DOC's consent to an assignment, delegation or transfer shall be provided to DOC at least ninety (90) calendar days prior to the proposed effective date of the assignment. If DOC consents to such assignment, delegation or transfer, the assignee or transferee shall be entitled to all of Contractor's rights under this Contract, provided that (i) the assignment does not increase the obligations of DOC under this Contract, (ii) such assignee or transferee shall be subject to all defenses of DOC under this Contract, (iii) such assignee or transferee shall be responsible for all of Contractor's obligations under this Contract, and (iv) Contractor shall not be released from its obligations under this Contract and Contractor shall remain primarily liable for all of its obligations Under this Contract as if no assignment had occurred.

The foregoing notwithstanding, Contractor may assign, delegate or transfer its rights, duties or obligations under this Contract to an Affiliate of Contractor, provided that (i) the assignment, delegation or transfer does not increase the obligations of DOC under this Contract, (ii) such assignee or transferee shall be subject to all defenses of DOC under this Contract, (iii) no change of control of Contractor shall have occurred, and (iv) Contractor shall not be released from its obligations under this Contract and Contractor shall remain primarily liable for its obligations under this Contract as if no assignment had occurred.

Section 11.06 SUCCESSORS IN INTEREST

The provisions of this Contract shall be binding upon and shall inure to the benefit of the Parties to this Contract and their respective permitted successors and assigns.

Section 11.07 ENTIRE AGREEMENT

This Contract, together with the Solicitation, the Response, all written clarification materials, all supplementary documents incorporated by reference, all Written Authorizations, and all exhibits and attachments hereto and thereto, constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, whether oral, written, implied or expressed, relating to the subject matter hereof.

Section 11.08 INTERPRETATION OF DOCUMENTS

The documents forming this Contract (the "Contract Documents") consist of: (i) this Contract; (ii) the Exhibits and/or Appendices to this Contract, which describe the specific Service to be provided, the rates to be charged users of offender phones, and other information as may be necessary regarding the Service; (iii) the other Exhibits and/or Appendices and/or Attachments to this Contract; (iv) the Solicitation and all materials provided as part of or adjunct to the Solicitation, and written requests for clarification or additional information; and (v) Contractor's Response, including all its submittals, pricing information, reference materials, and any other documentation submitted with the Response and accepted by DOC, or in response to a written request for clarifications to the Proposal which may arise. The Contract Documents are

complementary and what is called for by one shall be as binding as if it were called for by all. The Contract Documents are intended to include all details of the Services to be provided and the manner of provision, in case of conflict among any of the Contract Documents, the order of precedence to resolve such conflict shall be the following: (1) this Contract and its Appendices, Exhibits, and Attachments; (2) the Solicitation; (3) the Response; (4) written clarifications; (5) written submittals; then (6) Certificates of Insurance. Without limiting the foregoing, any comments by Contractor contained in the Response or any attachments to the Response which limit the requirements contained in this Contract or the Solicitation or which contain descriptive language or items which are not as favorable to DOC as the language or items contained in this Contract or the Solicitation shall not be deemed to be accepted and agreed to by DOC unless such comments are specifically written into this Contract or the Appendices to this Contract.

Section 11.09 AMENDMENTS, WAIVERS

This Contract may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto. No term or condition of this Contract may be waived except by an instrument in writing signed by the Party against whom such waiver is sought to be enforced.

Section 11.10 CAPTIONS

The captions or headings in this Contract are for convenience only, and in no way define, limit, or amend the scope or intent of any provision of this Contract. Any cross-references provided are for convenience only and in no way limit all references to a particular subject.

Section 11.11 WAIVER

Failure of DOC to enforce any provision of this Contract shall not constitute a waiver or relinquishment by DOC of the right to such performance in the future nor of the right to enforce that or any other provision of this Contract, nor bar DOC from enforcing strict performance of such provision in any subsequent instance.

Section 11.12 FORCE MAJEURE

Except with respect to defaults of Subcontractors for which Contractor shall be responsible, neither Party shall be held responsible for any delay in performance or failure to perform caused by fires, strikes, embargoes, computer failures resulting from situations out of Contractor's control, power outage, civil or military authorities, acts of God, or other conditions beyond the reasonable control and not caused or contributed to by fault or negligence of the Party (each a "Force Majeure Event"). This provision as it relates to strikes shall apply only to failure to perform or delay in installation of the Services, and does not relieve Contractor from making every reasonable effort to maintain, repair, or restore the Services. If the delays are caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both Contractor and its Subcontractor, and without the fault or negligence of any of them,

Contractor will not be liable for damages for delays, unless the Supplies or services to be furnished by their Subcontractors were obtainable from other sources in sufficient time to permit Contractor to meet the required schedule.

In the event of a reduction or interruption of Services subject to this Section, Contractor shall employ its best efforts to restore the Services to DOC on the highest priority basis consistent with applicable statutes, rules, regulations, or other valid law.

Section 11.13 NOTICES

All notices, requests, demands or other communications required by or otherwise with respect to this Contract shall be in writing and shall be deemed to have been duly given to any party when delivered personally (by courier service or otherwise), when delivered by facsimile and confirmed by return facsimile, or seven days after being mailed by first-class mail, postage prepaid and return receipt requested in each case to the applicable addresses set forth below:

IF TO CONTRACTOR: 100 W.Monroe, Suite 2101

Chicago, Illinois 60603

Attn: Legal Department

IF TO DOC (by mail): P O Box 41114

Olympia, Washington 98504-1114

Attn: Contracts and Legal Affairs

IF TO DOC (by carrier): 7345 Linderson Way SW

Tumwater, Washington 98511

Attn: Contracts and Legal Affairs

or to such other address as such Party shall have designated by notice so given to each other Party.

Section 11.14 CONTRACTOR'S INFORMATION AND PROPERTY

"Confidential Information" shall mean any technical or business information, including third-party information, marked as confidential or proprietary and furnished, disclosed or made available in connection with this Contract, in any form or medium, by one Party to the other, including, without limitation, specifications, prototypes, software, models, drawings, marketing plans, financial data and personnel statistics. Confidential Information does not include information which (1) the recipient knew or had in its possession prior to disclosure, without confidential limitation; (2) is independently developed by the recipient without breach of this Contract; (3) becomes publicly

available without breach of this Contract; (4) is received rightfully from a third party and without obligation of confidentiality; or (5) is disclosed without restriction by the disclosing party.

Except as may be required by applicable law (including without limitation Washington's Public Records law, RCW 42.17), regulations, legal or agency order, demand or process, neither Party shall disclose to a third party any Confidential Information without the prior written consent of the other Party.

Section 11.15 INCORPORATION BY REFERENCE

All of the provisions of the Solicitation are incorporated herein and made a part of this Contract, except to the extent specifically modified by the terms of this Contract, in which event the terms of this Contract shall control. If there should exist a conflict between the express requirements of terms of this Contract or the Appendices or other Attachments hereto and the provisions of the Solicitation, such conflict shall be resolved according to the order of precedence described in Section 11.08. Any reference in the Solicitation to the term Service shall be deemed to be a reference to the term "Services" as defined in this Contract. To the extent not in conflict with the obligations under this Contract, the Parties hereto agree (and Contractor agrees to cause all Subcontractors) to comply with the obligations contained in Part II, Terms and Conditions, of the Solicitation.

Section 11.16 EXECUTION AND COUNTERPARTS

This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument.

State of Washington
Department of Corrections

FSH Communications, LLC



Harold W. Clarke
Secretary



Steven Loggans
Vice President/General Manager

4-17-06

Date

APRIL 13, 2006

Date

Approved as to Form:

By 

Assistant Attorney General

State of Washington
Department of Corrections

CDC06840

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APPENDIX 1.01

DEFINITIONS

Additional Services: Any Services initiated or installed under this Contract beyond the Initial Services, including, but not limited to, (i) any installation of new Offender phones requested to be installed by DOC, or (ii) any removal of Offender phones requested to be removed by DOC.

Attorney Phones: Those offender phones that are specifically set aside for an offender to contact his/her attorney, these calls are considered privileged and are not monitored or recorded as they are separate and are not processed through the Focus 100.

Change of Control: Any transfer of more than fifty percent (50%) of the voting securities of a Person or transfer of the power to direct or cause the direction of management policies (whether through ownership of securities or partnership or other ownership interest, by contract, operation of law or otherwise).

Day: A calendar day, except as otherwise so stated.

DOC: State of Washington, Department of Corrections.

DOC System Cutover: The Department-wide change from the current contract providers of equipment and service to the equipment and service providers under this Contract.

Emergency: A problem or outage (including nonfunctioning of vital features of the Focus 100 such as call blocking) that could potentially result in injury (broken glass, exposed wires), loss of life, or is security threatening.

Equipment: All equipment installed or made available by Contractor, according to its offender equipment standards, in connection with the delivery of the Services, including, but not limited to, the offender phones, the Monitoring and Recording Systems equipment, and all equipment previously installed by Contractor under other contracts between DOC and Contractor which is permitted to be used by Contractor under this Contract.

Extended Term: Is as defined in Part IV.

FCC: The Federal Communications Commission.

Focus 100: Value-Added Communications' Offender Call Monitoring and Recording System.

GAAP or generally accepted accounting principles: United States generally accepted accounting principles recommended from time to time by the Financial Accounting Standards Board.

Indemnified Parties or Indemnified Party: DOC, all State Entities, their officers, divisions, agents, employees, and representatives.

Initial Services: Any Services required under Appendix 2.01 to be installed and operational as soon as possible after the date of execution of this Contract without the need for any Written Authorization.

Initial Term: Is as defined in Part IV.

IRS: Internal Revenue Service:

Key Personnel: Specific personnel of Contractor deemed by DOC to be key personnel to the support of this Contract.

Like-New: Equipment that is refurbished, at a minimum, to all original factory specifications. Refurbishing shall be done by Contractor or its contracted representatives at an ISO 9000 qualified refurbishment facility. Appearance and operation of the Equipment shall be the same as new.

Loss: Any and all loss, damage, claim, obligation, liability, cost and expense (including, but not limited to, reasonable attorney and other professional fees and costs and expenses incurred in investigating, preparing, defending against or prosecuting any Proceeding).

Monitoring and Recording Services: The monitoring and recording services for the offender phones described more fully in Appendix 2.1.

Monitoring and Recording Systems: The Equipment, software and other products utilized by DOC and Contractor to provide the Monitoring and Recording services described in Appendix 2.1.

Offender Phone Services: That portion of the Services related to the Offender phones.

Offender phones: All telephones located in DOC owned or operated facilities that are available for use by DOC offenders.

Person: Any individual or corporation, company, general partnership, limited partnership, limited liability company, limited liability partnership, trust, incorporated or unincorporated association, joint venture, governmental authority or other entity of any kind.

Proceeding: Any protest, investigation, arbitration, claim, action, or suit.

RCW: Revised Code of Washington

Recording Media: The DAT tapes, CD's, diskettes and other recording media used in connection with the offender phones and the Monitoring and Recording Systems.

Response: Contractor's written Response to Solicitation #CRFP6446 for DOC of Washington Offender Telephones submitted by FSH Communications LCC, including all pricing information, attachments, reference materials, and written clarifications submitted as part of the response to the Solicitation, and additional information provided in response to subsequent requests or inquiries from DOC.

Specifications: All requirements and specifications set forth in this Contract, the Solicitation, the Response and all appendices and other attachments to this Contract, the Solicitation and the Response, including, but not limited to, the performance requirements and specifications for the Service set forth in Appendix 2.01 to this Contract.

Station Wiring: The wiring from the phone closet to the instrument.

Subcontractor: The individual, firm, corporation, or organization having a direct contract with Contractor to furnish Service, either wholly as described in the Contract, or in support of or as part of Service, which is the responsibility of Contractor.

Term: The Initial Term together with any Extended Term.

Transfer: To grant, sell, assign, encumber, permit the utilization of, license, lease, sublease or otherwise convey, directly or indirectly, in whole or in part.

Turnkey: Complete installation including all craft working, training, etc, as necessary to fully implement or operate a system. All that remains is for the end user customer to turn the key.

WAC: The Washington Administrative Code.

WUTC: The Washington Utilities and Transportation Commission.

APPENDIX 2.01 SERVICE

Contractor agrees to provide to DOC, the following Services (individually, a "Service", and collectively, the "Services") pertaining to Offender phones currently installed and which may be installed in the future during the Term of this Contract.

The requirements of the Solicitation and representations about the Services to be provided contained in the Response are incorporated herein by this reference to the extent they are not inconsistent with or less protective to DOC. If there is any conflict or inconsistency between the Solicitation, the Response and this Appendix, the terms of this Appendix shall control.

Offender phones connected to Call Monitoring and Recording Systems

Contractor, at its expense, shall provide, install, maintain and keep in operation Offender phones which shall be the Contractor's standard coinless telephone station equipment (including line activation) designed for and capable of providing service to offenders at all locations within DOC facilities where Offender phones are currently installed and may be requested by DOC to be installed in the future in existing facilities, in expansion of existing facilities, or in new construction under way or yet to be initiated. To the extent not inconsistent with the requirements set forth in this Appendix and elsewhere in the Contract, these Offender phones shall be constructed and configured, and shall perform, as represented in the any manufacturer brochure or in Contractor's Proposal, and/or equivalent. Installation shall include line activation, and interconnection with Monitoring and Recording Systems equipment where equipped.

OFFENDER PHONES & ENCLOSURES -

Contractor will provide offender telephones (Western Electric 10A, modified 1D2 Coinless Inmate Telephone or Wintel 7090) as described in its proposal specifications during the term of the contract. Contractor's offender equipment standards are to provide offender telephones within a DOC facility in one of the following manners:

- Offender Telephone secured directly to a wall;
- Offender Telephone secured directly to a wall in a Shelf Enclosure. Shelf enclosures come in two sizes, the smaller measuring 29 inches high, 16 inches wide and 11 inches deep. The wider unit measures 29 inches high, 23 inches wide, and 12 inches deep.
- Offender Telephone secured in an enclosure attached to a pedestal. The L31 Space Saver is a small enclosure measuring approximately 61 inches high,

14½ inches wide and 12 inches deep with pedestal. Without the pedestal, the enclosure is 29½ inches high and 9½ inches deep.

- Offender Telephone secured in a full size telephone booth. The BN500 Booth is a full-sized enclosure measuring approximately 85 inches high, 34 inches wide and 30 inches deep.
- Battery powered TDDs will be provided to the DOC which will enable a hearing impaired Inmate to place a TDD call from the standard installed Offender Telephone. The Ultratec SuperPrint model 200. The model 200 has a printout for locations that would like a record of the TTY conversation. Number of TDD units will be mutually agreed upon between the DOC and FSH.

In all cases where an offender phone is secured the installation will be done in such a manner that the material will not be easily removed through normal wear and tear; and will be replaced at any time should there be a material breakdown of the equipment or offender telephone.

It is understood that the Contractor stocks offender telephones and enclosures described herein and in its proposal; and as such are considered standard.

Any request to customize any equipment beyond those specified in the contract and proposal will be discussed between the parties to assess the cost impact of such request.

FSH-PROVIDED WORKSTATIONS

As the DOC intends to utilize its own state-owned workstations, at a future date when the state's Information Technology organization completes its upgrade of internal systems and infrastructure; until such time as said state-owned workstations are functional FSH will provide the DOC with approximately thirty-three (33) workstations for their use to access the Focus 100 system. Workstations come equipped with the necessary hardware and software to enable access and use of the Focus 100 system. Each workstation will include a monitor, printer, UPS (uninterrupted power supply), headphones and CD burner. The workstations will be returned to FSH in satisfactory condition, less normal wear and tear, and must be returned in the same configuration as supplied (e.g. if workstation is provided with a flat panel monitor, same monitor must be returned with the workstation).

Any unauthorized software, including Trackdown, installed on these workstations by the DOC will be at the DOC's expense and must be approved in advance in writing by Contractor. The DOC will be responsible for all expenses relating to the additional software and any expenses incurred by VAC or FSH as a result of the DOC's software causing any service related problems to either the workstation(s) or to the Focus100 system(s) or associated equipment.

Contractor will engineer each Focus 100 system with the appropriate number of trunks needed, by facility, to manage existing call volumes which will be at a minimum of P.01 Busy Hour grade of service. Following the initial system turnup, Contractor will continue to monitor and adjust, when necessary, the number of lines required to handle any change in call volume.

All offender phones shall be installed with a cutoff switch located in a controlled area that, when activated, can physically disable the telephone to prevent any incoming or outgoing calls and disrupt any call in progress. A call deactivation capability shall also be provided that will allow DOC personnel to disable any offender phone from a local control center or area designated by DOC where station wire can be installed and cable provided by the DOC.

All Offender phones provided under this Contract shall be installed in compliance with current ADA (Americans with Disabilities Act) requirements, contain no removable parts, and be designed, constructed, and installed in such a manner as to minimize vandalism and destruction of property and to present no safety hazard to the user. Telephone Devices for the Deaf (TDD acoustic couplers) shall be provided where required at each DOC facility.

The DOC may request that privileged attorney calls be allowed to be made from the installed offender phones. It is understood that such calls, if processed through the Focus 100, will not be recorded and should not be monitored. Such a request will include a comparative reduction in the number of separately provided attorney phones.

Contractor shall have emergency support personnel available 24 hours per day, seven days per week to respond to Offender phone outages. For normal repair and maintenance work, field technicians and their supervisors shall be available five (5) days a week, between 7:00 a.m. and 4:00 p.m. The repair interval for a minor repair fix or maintenance shall be 24 hours or less, five (5) days a week. A major repair fix shall be completed within four (4) hours after the outage is reported. A major failure is an outage that may cause injury or a life-threatening situation. Instructions will be provided to the DOC regarding the method of contact, during and after hours, and may be modified during the term; however no modification will change the response requirements set forth in the Contract.

Contractor shall provide the following for all Offender Phones:

- (1) 24 hour per day, seven days per week operator service for call handling, complaint reports, and credit adjustments for cutoffs and poor transmission quality;
- (2) A 24-hour per day, seven days per week toll-free number for reporting telephone set troubles;

- (3) A minimum of two alternate language voice prompts (English and Spanish) for Offender Phones;
- (4) The ability to place calls to all domestic and international locations within the North American Dialing Plan;
- (5) P.01 Busy Hour grade of service;
- (6) Less than one percent of phone calls shall be lost due to hardware/software failure;
- (7) Easy to understand charge records for users of Offender Phones or recipients of collect calls;
- (8) Methods to control fraud using Offender Phones; and
- (9) All signage and notices required by the FCC, the WUTC, and DOC.

Within 60 days of the close of Contractor's fiscal year, an annual report containing an inventory of the telephone numbers and locations for each Offender Phone covered by this Contract shall be provided to DOC.

Contractor or its Subcontractors shall provide, at its expense, local and long distance (IntraLATA, InterLATA, intrastate, interstate, and international) calling service for all of the offender phones located on properties owned or operated by DOC including those currently installed and those yet to be identified or installed in the future during the term of this Contract.

All local and long distance services whether provided with Contractor's resources and over its network, or with the resources and networks of other telecommunications companies shall integrate with one another and operate seamlessly. Full reporting of all usage for all calling services shall be provided. Contractor shall also provide seven days per week, 24 hour per day access to professional security and fraud monitoring, and fully interactive call trace capability that will immediately report the addresses of call origins where technology permits.

Contractor shall meet with DOC personnel, on a quarterly basis, during the Term of this Contract, to review and discuss Contractor's performance under this Contract.

Contractor or its Subcontractors, at its expense, shall provide local, long distance (IntraLATA, InterLATA, intrastate, and interstate) and international calling service and its standard equipment for all of the Offender phones located within all DOC facilities both currently installed and as may be installed in the future during the Term of this Contract, in expansion of existing facilities or in new construction under way or yet to be initiated.

Offender Calling System

The Contractor will provide an Offender Calling System as set forth in the Solicitation and the Response which are incorporated herein by this reference.

Offender Call Monitoring and Recording System

The Contractor will provide an Offender Call Monitoring and Recording System (Focus 100) as set forth in the Solicitation and the Response, which are incorporated herein by this reference. By separate document the Contractor and DOC shall describe the functional requirements required for DOC to implement the VAC inmate telephone system. Said document shall be identified as "State of Washington Department of Corrections Statement of Work (SOW)" which shall be incorporated into the Contract by this reference.

All DOC prison facilities will have installed either in a control center or master control center live-monitoring equipment. Such installation will occur consistent with Contractor's Implementation Plan or as otherwise mutually agreed. Focus 100 equipment will be provided by Contractor in accordance with the Response.

Work stations, where needed, will be provided by FSH or VAC programmed to interface with the VAC Focus100 systems. Any unauthorized software installed on these workstations by DOC will be at DOC's expense and must be approved in advance in writing by FSH. DOC will be responsible for all expenses relating to the additional software and any expenses incurred by VAC or FSH as a result of DOC's software causing any service-related problems to either the workstation(s) or to the Focus100 system(s) or associated equipment.

Trouble Reporting and Repair Response

Contractor shall provide a 24-hour per day, seven (7) days per week toll-free number for reporting troubles requiring repair. A trouble call to the toll free number shall result in an immediate trouble ticket with an appropriate trouble diagnosis and repair response.

Repair response shall consist at a minimum of a qualified technician on site or remotely connected to the system. At a minimum, the technician shall have adequate replacement components to complete the repair of port modules, power supplies, and phone components.

Contractor shall have emergency support personnel available 24 hours per day, seven (7) days per week to respond to failures or trouble with Offender phones, the offender call system, or the offender call monitoring and recording system. For normal repair and maintenance work, field technicians and their supervisors shall be available five days a week, between 7:00 a.m. and 4:00 p.m.

Minor failures or routine maintenance shall be completed within 24 hours or less, five (5) days a week. A minor failure is defined as any failure less than a major failure.

Contractor shall respond to major failures within two (2) hours of when the failure is reported. Such response shall consist of a status report of the failure, which shall be determined by remote-access or by a trained specialist on site. The repair shall be completed by the earlier of (i) four (4) hours after Contractor responds to the failure, or (ii) eight (8) hours after the failure is reported. A major failure is defined as a loss of call monitoring or call removal capabilities or a catastrophic failure. A catastrophic failure includes any event that causes 25% or more of the phones at any one site to be unable to process calls or the complete loss of availability of any single facility service, including component failures terminating service, network service failures terminating calling, downtime for routine or remedial maintenance during normally scheduled times in which the equipment is supposed to be available for use, or any case in which a facility management considers it necessary to shut the system down because of component failure related to the "safe and orderly" operation of the facility, or because continuing operation would result in financial loss.

Contractor shall provide such personal background data as is required by DOC on any of the Contractor's or its subcontractors' personnel entering a correctional facility.

Contractor shall provide the Inmate Repair Self-Reporting services as outlined in its proposal to facilitate rapid response to repair needs as identified by an Offender (e.g. handset is broken) or to address call completion questions.

APPENDIX 3.01

A. Calling Plans

Contractor shall within 120 days from the Agreement's execution date or upon date of DOC System Cutover, which ever is earlier, and throughout the term of the Contract, including any extensions thereof, offer 1) a traditional or direct bill calling plan for offender family and friends on approved offender phone call lists; 2) a discounted Advance Pay (pre-paid) calling plan for offender family and friends on approved offender phone call lists; 3) a pre-paid debit calling plan that may be funded by individual offenders at a discounted rate through accounts established in facility commissaries, or otherwise as may be determined by DOC, 4) one complimentary call for each offender each year, and 5) one prepaid calling card (\$10.00 value) to be provided by DOC to an offender upon his/her release from incarceration.. Calling plans will be implemented Department-wide unless otherwise requested by the Secretary.

Any program under which Contractor denies or blocks calls for the purpose of limiting abuse of credit or to limit consumer debt is subject to approval by DOC, and shall be proposed to DOC at least sixty (60) days in advance of the date the program is proposed to take effect.

Call Costs

Call costs, as detailed below, clearly demonstrate the parties' desire and willingness to develop creative, cost effective rates for the offender or called party while providing minimum positive margins for the Contractor and sufficient revenues for the activities funded from the Institutional Welfare Betterment Account. Call costs will be effective upon date of DOC System Cutover, but no later than 120 days from the Agreement's execution date unless otherwise requested by the Secretary

FSH will provide a flat rate of \$3.50 for all collect calls, up to 20 minutes in length, which terminate in the local IntraLATA, interLATA/Intrastate, or interLATA/Interstate boundary applicable to the State of Washington. Advance Pay or Debit calls that fall into these LATA boundaries will receive a 10% discount.

Interstate calls that terminate outside of these boundaries will be \$0.89 per minute plus a \$4.95 surcharge.

International call costs vary by call destination – see International Chart below

These rates and surcharges shall constitute the total costs to consumers or offenders. No additional rates or charges per call, per minute, per mileage band may be imposed (except for applicable taxes and charges as approved by

FCC or state public utilities commission), and no additional rate periods applied without the written consent of DOC. Any changes to rates, surcharges or discounts proposed during the term of a contract extension will be mutually negotiated and agreed between the parties as described in Section 7 of the Solicitation. Adjustments in phone rates will be considered by the DOC when provided written notice of any proposed change in rates with sufficient documentation to justify request.

Advance Pay Accounts

FSH will provide instructions for offender families and friends describing the steps necessary to set up an Advance Pay Account. Advance Pay accounts set up by the called party who is authorized to receive offender calls will be charged a non-refundable \$10.00 account setup fee. This fee will be deducted only once and is necessary to pay for the cost of the call center for initial account set up and administration. The minimum account funding will be \$50.00 and the maximum will be \$200.00 for each account. Once an account is established, calling will be allowed as long as funds are available in the account. As the account balance nears zero (0), the called party will be played a message with instructions to contact the call center to add funds to the account so that calling is not interrupted. Each account may only be funded once per day. Once an inmate is released from custody, the owner of the pre-paid account may fully use any remaining account balance by calling a toll free number to receive a telephone number and PIN number which will allow them to place calls to any domestic (USA) number similar to a calling card. Alternatively, pre-paid account holders may request a refund of the unused funds in their account by providing VAC a written request. There will be a charge of \$10.00 to provide a refund check for any pre-paid account. This fee will be deducted from the available funds in the pre-paid account prior to issuing the refund.

Offender Debit Calling

Contractor shall also develop a pre-paid debit calling plan that may be funded by individual offenders to receive a discounted rate, through accounts established in facility commissaries, or otherwise as may be determined by DOC. This plan shall be offered as a voluntary alternative to the ordinary collect-call procedure. The offender pre-paid debit calling plan shall not be offered to offenders or implemented by Contractor until reviewed and approved by the Secretary of DOC. Contractor shall be responsible for providing staffing and any other resources necessary to implement an offender pre-paid debit calling plan.

B. Basis and Guarantee for Commissions Paid to DOC

1. The DOC shall receive as a commission 51.00% of the amount billed for all accepted calls. In the case of calls made under a pre-paid calling plan, amounts debited against the account shall represent accepted calls.

2. The DOC shall receive annually the sum of FIVE MILLION ONE HUNDRED THOUSAND DOLLARS (\$5,100,000.00) as its minimum commission, paid quarterly, as nonrefundable advance payments, regardless of whether that amount is greater than 51.00% of the amount billed for all accepted calls actually made during that year. If the cumulative amount of commissions derived by applying the commission rate of 51.00% to the total amount billed for all accepted calls actually made during that year exceeds the advance payments, then the DOC shall receive an additional payment, as set forth in Paragraph C below. If the cumulative amount of commissions derived by applying the commission rate of 51.00% of the total amount billed for all accepted calls actually made during that year falls below the amount of the advance payments, the DOC shall not reimburse Contractor for the amount of the deficit.

3. Contractor shall provide a monthly report to the Department of Corrections indicating the total number of accepted calls, including how call was paid and the associated amounts, number of attempted calls, and number of minutes billed for local, intraLATA, interLATA, interstate, international and any other tariff schedule used as a basis for payment of DOC's commission. The report shall reflect such numbers and amounts on both a facility level and in aggregate totals for the Department, and shall be submitted to the Department no later than the 20th day of the following month.

4. Upon an award of a succeeding contract for offender telephone service to a vendor other than Contractor, occurring during a contract year and in an instance in which the termination of the contract herein is not due to a material breach of the contract by Contractor, if, as of the transition date, the cumulative amount of commissions derived by applying the commission rate of 51.00% of the total amount billed for all accepted calls actually made during the transition year falls below the amount of the advance payments made by Contractor pursuant to Paragraph B(1) above, the DOC shall require the new vendor to reimburse Contractor for the amount of the deficit as a condition to the transitioning of the service. Reimbursement of a commission deficit shall not be required if the contract is terminated for any reason effective on a contract anniversary date, and in no event shall the DOC be liable for any commission reimbursement.

C. Payment of Commissions

1. The guaranteed commission of \$5,100,000.00 shall be paid to the DOC in quarterly installments of \$1,275,000.00 due no later than the 30th day of January, April, July and October of each calendar year. The payment of the first installment will be prorated at a rate of thirteen thousand nine hundred seventy-two dollars and sixty cents (\$13,972.60) per day for the quarter in which the contract is fully executed.

2. Any additional commission payment due to DOC shall be paid in full and remitted separately from the quarterly installment payments to the

Department of Corrections on or before January 30th of the succeeding contract year (the first additional commission payment, if any, shall be due on January 30, 2007). Contractor shall notify DOC of additional commission calculated and owed under this Contract. It is understood by the parties that it is the Intent of the DOC to mitigate where possible offender, family or friend costs of offender calls. Contractor will use its best efforts to assist the DOC in determining each year the best use of any additional commission for such purpose.

3. All quarterly commission payments shall be made payable to "The Washington State Department of Corrections," and shall be directed to Washington State Department of Corrections, Business Services, PO Box 41107, Olympia, WA 98504-1107 Attn: Janet Ensley. DOC will provide direction to the Contractor for payment of additional commission. At the DOC's request commissions will be remitted via electronic wire transfer. Such request must be made in writing and contain all applicable bank routing information to facilitate such transfer.

4. The guaranteed commission for each subsequent calendar year will be adjusted on January 1st of each year based on the fiscal year U.S. Implicit Price Deflator (IPD) published in the June volume of the Washington Economic and Revenue Forecast. The DOC will provide this information to the vendor no later than August 1st of each calendar year.

5. Any change in rates or commission will be mutually agreed upon and will not create a substantial impact to the expenses incurred by the vendor.

INTERNATIONAL RATES - DEBIT ONLY

Country Code	Country	Per Min. Rate	Country Code	Country	Per Min. Rate
01193	Afghanistan	\$5.01	011238	Cape Verde Island	\$2.66
011355	Albania	\$2.28	345	Cayman Islands	\$1.14
011213	Algeria	\$1.79	011236	Central African Republic	\$4.00
011684	American Samoa	\$2.39	011235	Chad Republic	\$4.81
011376	Andorra	\$1.31	01156	Chile	\$1.11
011244	Angola	\$2.93	01186	China	\$2.51
264	Anguilla	\$1.86	01157	Colombia	\$1.72
011672	Antarctica	\$4.81	011506	Costa Rica	\$1.60
268	Antigua (Barbuda)	\$1.36	011385	Croatia	\$1.94
01154	Argentina	\$1.44	01153	Cuba	\$2.37
011374	Armenia	\$2.66	01145	Denmark	\$1.05
011297	Aruba	\$1.31	767	Dominica	\$1.21
01161	Australia	\$0.77	809	Dominican Republic	\$1.01
01143	Austria	\$1.43	011593	Ecuador	\$2.02
011994	Azerbaijan	\$2.12	01120	Egypt	\$2.25
242	Bahamas	\$0.76	011503	El Salvador	\$1.57
011973	Bahrain	\$2.22	011358	Finland	\$1.06
011880	Bangladesh	\$3.20	01133	France	\$0.64
246	Barbados	\$1.65	011241	Gabon	\$2.25
01132	Belgium	\$1.04	011220	Gambia	\$2.00
011501	Belize	\$1.94	01149	Germany	\$0.66
011229	Benin	\$2.28	011233	Ghana	\$1.78
441	Bermuda	\$1.08	01130	Greece	\$1.39
011975	Bhutan	\$5.07	473	Grenada	\$1.64
011591	Bolivia	\$1.87	011502	Guatemala	\$1.49
011387	Bosnia-Herzegovina	\$1.94	011592	Guyana	\$2.59
011267	Botswana	\$2.28	011509	Haiti	\$2.06
01155	Brazil	\$1.26	011504	Honduras	\$2.02
284	British Virgin Islands	\$1.29	011852	Hong Kong	\$1.41
011359	Bulgaria	\$1.55	01136	Hungary	\$1.23
011226	Burkina Faso	\$2.93	01191	India	\$2.49
011257	Burundi	\$5.64	01162	Indonesia	\$1.85
011855	Cambodia	\$4.99	01198	Iran	\$3.00
011237	Cameroon	\$2.49	011964	Iraq	\$4.08
1	Canada	\$0.44	011353	Ireland	\$0.94

Country Code	Country	Per Min. Rate	Country Code	Country	Per Min. Rate
011972	Israel	\$1.73	01165	Singapore	\$1.25
01139	Italy	\$1.06	011421	Slovakia	\$1.58
876	Jamaica	\$2.16	011386	Slovenia, Republic of	\$1.94
01181	Japan	\$0.78	011252	Somalia	\$7.05
01182	Korea, South	\$1.26	01127	South Africa	\$1.55
011856	Laos	\$5.16	01134	Spain	\$1.28
011371	Latvia	\$2.12	869	St. Kitts	\$1.37
011961	Lebanon	\$2.39	758	St. Lucia	\$1.62
011231	Liberia	\$1.80	011508	St. Pierre & Miquelon	\$1.29
011370	Lithuania	\$2.50	784	St. Vincent & Grenadines	\$1.82
01160	Malaysia	\$1.37	011249	Sudan	\$4.26
01152	Mexico - Rate Zones 1-3*	\$0.70	01146	Sweden	\$0.61
01152	Mexico - Rate Zones 4-8*	\$1.22	01141	Switzerland	\$0.66
0113393	Monaco	\$0.64	011963	Syria	\$2.93
664	Montserrat	\$1.89	011886	Taiwan	\$1.41
011212	Morocco	\$2.20	01166	Thailand	\$1.94
011599	Netherlands Antilles	\$1.48	868	Trinidad & Tobago Islands	\$1.80
01131	Netherlands	\$0.61	01190	Turkey	\$1.59
01164	New Zealand	\$2.46	649	Turks & Caicos	\$1.63
011505	Nicaragua	\$1.65	340	U.S. Virgin Islands	\$0.95
011234	Nigeria	\$2.77	011256	Uganda	\$2.12
01147	Norway	\$0.75	011380	Ukraine	\$2.39
01192	Pakistan	\$2.77	011971	United Emirate	\$1.53
011507	Panama	\$1.71	01144	United Kingdom	\$0.51
011595	Paraguay	\$2.08	011598	Uruguay	\$2.05
01151	Peru	\$1.76	01158	Venezuela	\$1.34

Country Code	Country	Per Min. Rate	Country Code	Country	Per Min. Rate
01163	Philippines	\$1.59	01184	Vietnam	\$3.24
01148	Poland	\$1.32	011967	Yemen	\$1.85
011351	Portugal	\$1.43	011381	Yugoslavia	\$1.98
787	Puerto Rico	\$0.65	011243	Zaire	\$2.12
01140	Romania	\$1.96	011263	Zimbabwe	\$1.85
0117	Russia	\$2.11			
011250	Rwanda	\$3.20			
011966	Saudi Arabia	\$2.79			
011221	Senegal	\$3.32			

State of Washington



Department of Corrections

Contract No. CDOC 6840

Amendment No. 1

This Amendment is made by the state of Washington, Department of Corrections, hereinafter referred to as Department, and FSH Communications, LLC, hereinafter referred to as the Contractor, for the purpose of amending the above-referenced Contract, heretofore entered into between the Department and the Contractor.

WHEREAS the purpose of this contract amendment is to modify the initial term of the Contract, address the expansion of the Coyote Ridge Corrections Center, and to memorialize the Department's decision to implement Personal Access Number (PAN) List for offenders;

NOW THEREFORE, in consideration of the terms and conditions contained herein, or attached and incorporated and made a part hereof, the Department and Contractor agree as follows:

1. PART IV. – TERM, is amended in part as follows:

The initial term of this Contract is from the Agreement's execution date through ((December 31, 2009)) December 31, 2010 ("Initial Term").

2. The following language is added to the Scope of Work:

Implementation of Personal Access Numbers:

The Department and Contractor will implement PAN for offenders on a trial basis at the Airway Heights Corrections Center beginning April 15, 2009, and continue for 60 consecutive days during which the Department and the Contractor will meet weekly to review process success. The Department and the Contractor have agreed to the following to implement PAN:

- During the first two weeks of the trial period offenders will use the normal call process to automatically populate their individual PAN of up to 25 telephone numbers;
- Adds / Changes / Deletions - Offenders will call the Contractor at a designated, special number (set up as a speed dial) to request changes to their PAN list. The following parameters will apply:
- Changes/additions/deletions to PAN list once every 30 days only; Five numbers per month allowed for changes/additions; Any number of deletions are allowed monthly. The Department will establish a practice for lost PAN lists and designate person(s) to supply to offenders internally;
- Authorized personnel will have access to offender PAN lists which may be printed from the System.
- If approved by the Department for statewide implementation the Department will establish procedures for establishing PAN lists for new offenders entering the system at the Washington Corrections Center.
- If the Department authorizes going forward after the trial period the Contractor will turn up the rest of the sites by approximately June 8, 2009.

Implementation of Friends and Family Debit:

The Department and the Contractor agree to implement Friends and Family Debit – also known as V-Direct by August 2009. V-Direct enables adding funds directly to an offender's personal phone account allowing the offender to place calls to anyone anywhere on his/her PAN that may not qualify for traditional collect billing (such as cell phones, VoIP phones, and international calls) and in the case of in-state calling a discount price. There shall be charge to initially set up the personal phone account. The Department and the Contractor agree that this debit account will be used by the Contractor to deposit funds each year in each offender's V-Direct account equal to the cost of one 20-minute in state call, currently \$3.15 (plus tax).

Coyote Ridge Corrections Center:


The Department and the Contractor will work cooperatively to add additional offender phones and associated equipment to accommodate the planned increase in offender population at the Coyote Ridge Corrections Center. The Contractor will use its best efforts to match increasing offender population with phone service capacity.

Additions to the text of Contract No. CDOC6840 are shown by underline and deletions by ((strikeout)). All other terms and conditions remain in full force and effect. The effective date of this amendment is the date of last signature.

THIS CONTRACT AMENDMENT, consisting of two (2) pages and no attachments is executed by the persons signing below who warrant that they have the authority to execute the contract.

FSH COMMUNICATIONS, LLC

DEPARTMENT OF CORRECTIONS


(Signature)


Steven Loggans

(Printed Name)

Vice President/General Manager

(Title)

April 6, 2009
(Date)


(Signature)

Gary Banning

(Printed Name)

Contracts Administrator

(Title)

4/13/09
(Date)

Approved as to Form:

This contract amendment format was approved
by the Office of the Attorney General, on April 14, 1998.
Approval on file.

State of Washington



Department of Corrections
Contract No. CDOC 6840
Amendment No. 2

This Amendment is made by the state of Washington, Department of Corrections, hereinafter referred to as "Department" or "DOC", FSH Communications, LLC, a Limited Liability Company "FSH", and Value Added Communications, Inc., a Delaware Corporation with its principal offices at 1601 N. Collins Blvd., Richardson, Texas, hereinafter referred to as the "VAC" or "Contractor", for the purpose of amending the above-referenced Contract, heretofore entered into between the Department and FSH Communications, LLC, hereinafter referred to as "FSH".

WHEREAS the purpose of this contract amendment is to recognize the transfer and acquisition of certain of FSH's inmate telephone business assets and obligations from FSH to VAC; provide Department consent of the assignment and assumption of this contract, and to make such other modifications to this contract as made necessary by such assignment;

NOW THEREFORE, in consideration of the terms and conditions contained herein, or attached and incorporated and made a part hereof, the Department, FSH, and VAC agree as follows:

1. PART V. -- PART REPRESENTATIONS AND WARRANTIES, is amended in part to read as follows:

PART V. - PARTY REPRESENTATIONS AND WARRANTIES

Section 5.01 CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

Contractor makes the following representations and warranties for the benefit of DOC:

(a)(1) FSH is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware, and has the corporate power to carry on its business as it is now being conducted and currently proposed to be conducted. FSH is qualified as a foreign corporation to do business, and is in good standing, in the State of Washington. FSH is fully licensed and registered with the Washington Utilities and Transportation Commission to provide the Services. FSH's registered agent for service of process in the State of Washington is Corporation Service Company.

(a)(2) VAC is a for profit corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and has the corporate power to carry on its business as it is now being conducted and currently proposed to be conducted.

VAC is qualified as a foreign corporation to do business, and is in good standing, in the State of Washington. VAC is fully licensed and registered with the Washington Utilities and Transportation Commission to provide the Services. VAC's registered agent for service of process in the State of Washington is Corporation Service Company.

2. The Assignment and Assumption Agreement contemporaneously executed by FSH, VAC, and DOC is attached hereto as Appendix 7 to this contract and made a part hereof. DOC'S consent and approval of said agreement shall not affect application of the requirements of Section 11.05, Assignment, to future assignments. Neither shall such consent and approval be interpreted in any way that increases the obligations of DOC or waives any defense or right of DOC regarding this Contract. DOC releases FSH from its obligations, including those under Part VIII (Remedies), Part IX (Indemnity, Liabilities and responsibilities) and Part XI (Miscellaneous), assumed by VAC pursuant to the Assignment and Assumption Agreement and this Amendment only to the extent that VAC has committed to fulfill those obligations.

3. APPENDIX 6.01.2 Key Personnel is amended to read as follows:

KEY PERSONNEL (effective until the effective date of this amendment)

FSH Communications

Name	Title
Dana Alixander	Director -- Sales
James Brandt	Director -- Infrastructure
Greg Button	Director -- Customer Service
Bob Dubay	Director -- Corrections Products
Ken Jackson	Director -- Operations
Shellie Luallin	Director -- Information Technology
Christy Bailey	Operations Manager -- Washington
Tom Deja	Operations Manager -- SW WA/Oregon
Joanna Howard	Account Executive -- Washington
Denitrice Jenkins	Customer Account Consultant
Deb Walker	Manager -- Corrections Services/Repair

KEY PERSONNEL (effective beginning on the effective date of this amendment)

Value-Added Communications

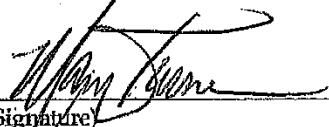
Name	Title
Joanna Howard	Account Executive
Brian Galke	Director -- Customer Care
Camal Mohed	Director -- Technical Assistance Center
Steve Hodge	Chief Technical Officer
Mark Turner	President/COO

4. Except for paragraph #1 of this Amendment, "Contractor" or "FSH", as used in this contract, shall mean FSH Communications, LLC from the Agreement's execution date through the effective date of this Amendment and shall mean Value-Added Communications, Inc. from such date forward.

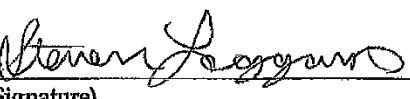
All other terms and conditions remain in full force and effect. The effective date of this amendment is the date of last signature.

THIS CONTRACT AMENDMENT, consisting of three (3) pages and one (1) attachment is executed by the persons signing below who warrant that they have the authority to execute the contract amendment.


VALUE-ADDED COMMUNICATIONS,
INC.


(Signature)
Mark Turner
(Printed Name)
President/CEO
(Title)
8/4/9
(Date)

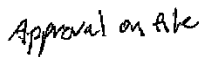
FSH COMMUNICATIONS, LLC.


(Signature)
Steven Loggans
(Printed Name)
Vice-President/General Manager
(Title)
JULY 27, 2007
(Date)

DEPARTMENT OF CORRECTIONS


(Signature)
Gary Banning
(Printed Name)
Contracts Administrator
(Title)
8/26/09
(Date)

APPROVED AS TO FORM


(Signature)
Pete Berney
(Printed Name)
Assist Attorney General
(Title)

(Date)

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Assignment") is made as of August 26, 2009 (the "Effective Date") by and between FSH Communications, LLC, a Delaware limited liability company ("FSH" or "Assignor"), Value Added Communications, Inc. (hereinafter "Assignee") and State of Washington ("State"). Assignor, Assignee and State are sometimes collectively referred to herein as the "Parties".

WHEREAS, on or about 4/17/2006, FSH and State entered into that certain Inmate Telephone Service Agreement, as amended (the "Inmate Agreement").

WHEREAS, subsequent to entering into the Inmate Agreement, Assignor and Assignee entered into certain agreements whereby Assignor agreed to transfer and Assignee agreed to acquire certain of Assignor's inmate telephone business assets and obligations.

WHEREAS, Assignor desires to assign all of its interest, rights and obligations under the Inmate Agreement to Assignee, and Assignee desires to accept assignment of Assignor's interest, rights and obligations under the Inmate Agreement.

WHEREAS, the Parties desire to document the formal Assignment of the Inmate Agreement and State's consent to the Assignment.

NOW, THEREFORE, for good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Effective as of the Effective Date and subject to the terms and conditions hereof, the Assignor transfers, assigns and sets over to the Assignee all of the Assignor's interest in the Inmate Agreement and Assignee assumes all of Assignor's interest in the Inmate Agreement. Notwithstanding anything in the Inmate Agreement to the contrary, this Assignment and State's consent to this Assignment shall release Assignor from any and all obligations of Assignor under the Inmate Agreement.
2. Subject to the terms and conditions hereof, Assignee hereby accepts this Assignment and the assignment of Assignor's interest in the Inmate Agreement. Assignee hereby agrees to perform all obligations of Assignor under the Inmate Agreement and to hold harmless, protect and indemnify Assignor against any and all claims, causes of action, loss, costs, liabilities and expenses related to Assignee's performance or non-performance under the Inmate Agreement.
3. State hereby consents to the assignment of the Inmate Agreement to the Assignee in accordance with the terms and conditions of this Assignment, and joins in this Assignment for the purpose of acknowledging its consent and approval thereto.
4. This Assignment may be executed via facsimile and in several counterparts and all so executed shall constitute one agreement binding on all Parties hereto.

5. This Assignment shall be construed in accordance with laws of the State of Washington, without regard to conflicts of law rules, and the parties irrevocably consent to the personal jurisdiction of the courts of State of Washington and irrevocably waive any objections to personal jurisdiction or venue in State of Washington. The federal and state courts of Washington shall have exclusive jurisdiction over any disputes arising out of this Assignment or the Innate Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed the Assignment as of the dates set forth below.

"Assignor"

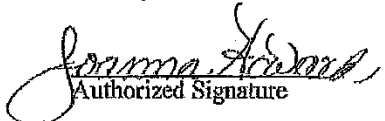
"Assignee"

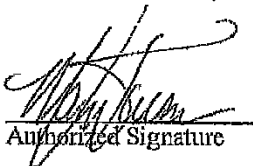
AGREED AND
CONSENTED TO BY:
"State"

FSH Communications, LLC
100 W. Monroe St.
Suite 2101
Chicago, Illinois 60603

Value Added
Communications, Inc.

State of Washington


Authorized Signature


Authorized Signature


Authorized Signature

Jorina Howard, ~~Dir. Exec.~~
Print Name and Title

MARK TURNER - PRES.
Print Name and Title

Gary Baunig, ~~Contracts Administrator~~
Print Name and Title

5.19.09
Date

5/19/9
Date

8/26/09
Date



STEVEN LOGGANS
VICE PRESIDENT
JULY 27, 2009

State of Washington



Department of Corrections
Contract No. CDOC 6840
Amendment No. 4

This Amendment to Contract No. CDOC6840 is made by the state of Washington, Department of Corrections, hereinafter referred to as "Department", and Value-Added Communications, Inc., hereinafter referred to as "VAC", for the purposes set forth herein.

WHEREAS the Federal Communications Commission (FCC) has issued order FCC 13-113 capping rates charged by providers of Inmate Calling Services (ICS) for interstate phone calls; and

WHEREAS the order has been partially stayed by the United States Court of Appeals order 13-1280 on January 13, 2014; and

WHEREAS to comply with the FCC Order during the stay and to allow adequate time to complete a competitive solicitation for ICS and ensure continuation of service at the end of the current contract term.

NOW THEREFORE, in consideration of the terms and conditions contained herein the Department and VAC agree as follows:

1. No later than effective date of the FCC order VAC will implement new interstate rates of .21/min for prepaid and debit calls and .25/min for collect calls. Interstate rates shall remain at or below the FCC mandated rate caps during the term of this contract.
2. It is understood between the parties that the interstate rates charged do not include a commission. The Minimum Account Guarantee (MAG) will be reduced to \$4,778,400.
3. The Department intends to issue a competitive solicitation to continue services at the end of the current term. However, additional time beyond the current term is necessary to promote competition due to uncertainty of the outcome of the current stay. The Department intends to begin the solicitation once the stay is lifted or there is sufficient clarity of allowable costs and charges to ensure that ICS providers may bid phone rates that are fair and reasonable and in compliance with FCC requirements. To this end the contract term is extended one year or until the completion and implementation of the new contract, whichever is later.

All other terms and conditions remain in full force and effect. The effective date of this amendment is the date of last signature.


State of Washington
Department of Corrections

CDOC6840
Amendment 3

Page 1 of 1

THIS CONTRACT AMENDMENT, consisting of two (2) pages is executed by the persons signing below who warrant that they have the authority to execute the contract amendment.

VALUE-ADDED COMMUNICATIONS,
INC


(Signature)

Jeffery B. Haidinger

(Printed Name)

President and COO

(Title)

(Date)

2/18/14

DEPARTMENT OF CORRECTIONS


(Signature)

Gary Banning

(Printed Name)

Contracts Administrator

(Title)

(Date)

2/26/14

Approved as to Form:

This amendment format was approved
by the office of the Attorney General.

Approval on file.



State of Washington
Department of Corrections

Contract No. CDOC6840
Amendment No. 5

This Amendment to Contract No. CDOC6840 is made by the Washington State Department of Corrections and Value-Added Communications, Inc. for the purposes set forth herein.

WHEREAS Value-Added Communications, Inc. (VAC) has implemented new rates charged offenders for prepaid or collect interstate phone calls; and

WHEREAS the Department of Corrections (DOC) and VAC have reached consensus on a reduction in the rates for instate offender phone calls;

NOW THEREFORE, in consideration of the terms and conditions contained herein the Department and VAC agree as follows:


1. VAC will reduce the flat rates charged for local, intraLata, and interLata calls made by offenders effective April 1, 2014. Collect calls made by offenders that are local, intraLata, and interLata will cost \$3.04 for a twenty minute call. Pre-paid calls made by offenders that are local, intraLata, and interLata calls will cost \$2.80 for a twenty minute call. Call costs do not include any applicable taxes or charges approved by the Federal Communications Commission or the state Public Utilities Commission.

2. The minimum amount guaranteed DOC under Section 3.02 and Appendix 3.01 of this Contract is reduced to (MAG) is reduced to \$4,028,400.


All other terms and conditions remain in full force and effect. The effective date of this amendment is April 1, 2014.

THIS AMENDMENT, consisting of one page is executed by the persons signing below who warrant that they have the authority to execute the contract amendment.

VALUE-ADDED COMMUNICATIONS


(Signature)
Jeffery B. Haidinger
(Printed Name)
President and COO
(Title)
7/21/14
(Date)

DEPARTMENT OF CORRECTIONS


(Signature)
Gary Banning
(Printed Name)
Contracts Administrator
(Title)
8/5/14
(Date)

Approved as to Form:
This amendment format was approved
by the office of the Attorney General.
Approval on file.



State of Washington
Department of Corrections

Contract No. CDOC6840
Amendment No. 6

This Amendment to Contract No. CDOC6840 is made by the Washington State Department of Corrections, hereinafter referred to as "Department" or "DOC", and Value-Added Communications, Inc. hereinafter referred to as "VAC", for the purposes set forth herein.

WHEREAS the parties have expressed interest in moving the hosting of the platform used to support the Inmate Calling Services (ICS) equipment; and

WHEREAS the parties desire to establish a sound plan to implement reduced ICS rates for telephone calls placed by Department offenders, to be compliant with and in accordance with *Order 15-136* adopted by the Federal Communications Commission (FCC) on October 22, 2015 ("FCC Order");

WHEREAS the parties agree to eliminate the current Minimum Amount Guaranteed (MAG) and establish a revenue sharing amount calculated as a percentage of total revenue;

WHEREAS the parties desire to memorialize the end date of the Contract, which is extended to align with the termination date of other offender communications services, thereby facilitating the Department's intent to pursue competitive procurement of bundled communication services at the end of the Contract term;

NOW THEREFORE, in consideration of the terms and conditions contained herein the Department and VAC agree as follows:

1. VAC will complete, at its own expense, the following changes to the inmate telephone system and associated equipment supplied by VAC under the Contract:
 - a. **Update of hosting platform.** Update the current platform used to support the inmate telephone equipment to a hosted solution. This includes an update to all software and hardware used in connection with the platform, including, but not limited to, the monitoring and recording systems to be compatible with the most current version of the Microsoft Windows operating system. A list specifying the upgrade is provided in Exhibit B to this Amendment. On-site training for the new system will be provided to Department personnel at VAC's expense on an as needed basis as communicated to VAC by the Department Contract Manager; and
 - b. **Removal of unused equipment.** Remove all equipment and supplies replaced by VAC in response to Department requests for technology refreshes, as allowed in the Contract. Removal of equipment will be completed at VAC's expense, within ten (10) business days of the technology refresh.
2. Effective March 17, 2016, VAC will reduce the rates and charges for intrastate and interstate inmate telephone calls made using the inmate telephone system (ITS) to rates and charges that are no greater than those allowed by *Order 15-135* adopted by the FCC on October 22, 2015.

The parties hereby agree that the rates charged to users of the ICS will at no time exceed the following:

- a. **Inmate Telephone Service Call Rates.** The per-minute-of-use call rate shall not exceed the maximum rates authorized by the Washington Utilities and Transportation Commission (UTC) and the FCC. Interstate and intrastate ITS calls, whether made using a collect debit,

prepaid/ AdvancePay™ format, or any other format shall at no time exceed the maximum eleven cents (\$0.11) per minute of use.

The rates charged are exclusive of taxes, and other amounts collected by VAC on behalf of, or paid to, third parties, including but not limited to payments in support of statutory or regulatory programs mandated by governmental or quasi-governmental authorities, such as the Federal Universal Service Fee, and any costs incurred by VAC in connection with such programs.

- b. **Ancillary Fees.** VAC may charge certain ancillary fees, which at no time shall exceed the maximum rates as authorized by the state UTC and the FCC Order. The parties agree that the maximum allowed fees shall be:

Fee for automated payment for credit card, debit card, and bill processing fees	\$3.00 per use
Fee for payment using live operator	\$5.95 per use
Fee for paper bill/statement	\$2.00 per use
Fee for use of third-party money transmitter (e.g., MoneyGram, Western Union, credit card processing, transfers from third-party commissary accounts)	The exact fee from the third-party provider passed through directly to customer with no markup

3. **Elimination of the MAG.** The parties hereby agree to the complete elimination of the MAG effective March 17, 2016. The prorated MAG, due to the Department for the period of January 1, 2016 through March 16, 2016, shall be paid to the Department no later than April 30, 2016.

Effective March 17, 2016 the MAG and other commission and revenue share payable by VAC under the Contract will be replaced with a fifty six percent (56%) call revenue sharing amount calculated monthly, as further described below. Call revenue shall mean all revenue generated by every completed intrastate call that is accepted by an end user and billed via a local exchange carrier or prepaid to VAC. Call revenue on which monthly revenue share will be paid does not include: (i) taxes and tax-related surcharges; (ii) credits; (iii) ancillary fees; (iv) revenue from interstate calls; and (v) any amount Company collects for, or pays to, third parties, including but not limited to payments in support of statutory or regulatory programs mandated by governmental or quasi-governmental authorities, such as the Federal Universal Service Fee, and any costs incurred by Company in connection with such programs. This call revenue sharing amount shall be due to the Department in quarterly payments in arrears due no later than the 30th day of each of these months: July, October, January, and April. Final call revenue sharing payments due under the Contract shall be paid within 60 days of the Contract end date.

4. **Contract Termination Date.** The Department previously intended to pursue competitive solicitation of the ICS to begin following the end of the original Contract term. However, the Department delayed competitive procurement due to uncertainty in the ICS market associated with pending FCC proceedings. In light of a recent partial stay granted for the FCC Order, and in an effort to align contract termination dates for offender communications services, including telephone services, so as to facilitate competitive procurement of bundled communication services at the end of this Contract term, the parties agree that the Contract term shall extend until December 31, 2018 or until full implementation of a new Contract resulting from the competitive solicitation, whichever is later. The

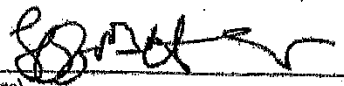
Department agrees to give VAC ninety (90) days advanced written notice of the full implementation date.

5. **VAC Cooperation at End of Contract.** Upon final termination of CDOC6840, VAC agrees to reasonably cooperate with the Department and any new Contracted vendor in accomplishing an efficient and effective transfer of responsibilities. All equipment and supplies currently owned or serviced by VAC under the current Contract at the time of full implementation of the new Contract will be removed within ten (10) business days of full implementation. The removal of equipment and supplies will be conducted at VAC's own expense.


All other terms and conditions remain in full force and effect. The effective date of this amendment is the date of final execution.

THIS AMENDMENT, consisting of three pages and two (2) exhibits is executed by the persons signing below who warrant that they have the authority to execute the Contract amendment.

VALUE-ADDED COMMUNICATIONS, INC.


(Signature)
Jeffery B. Haldinger
(Printed Name)
President and COO
(Title)
3/23/16
(Date)

DEPARTMENT OF CORRECTIONS


(Signature)
John R. Nispel
(Printed Name)
Acting Contracts Administrator
(Title)
3/17/16
(Date)

Approved as to Form:
This amendment format was approved
by the office of the Attorney General.
Approval on file.



State of Washington
Department of Corrections

Contract No. CDOC6840
Amendment No. 7

This Amendment is made by the state of Washington, Department of Corrections, hereinafter referred to as Department, and Value-Added Communications, Inc., hereinafter referred to as the Contractor, for the purpose of amending the above-referenced Contract, heretofore entered into between the Department and the Contractor.

WHEREAS the purpose of this contract amendment is to update the contract to the most recent General Terms & Conditions;

NOW THEREFORE, in consideration of the terms and conditions contained herein, or attached and incorporated and made a part hereof, the Department and the Contractor agree as follows:

Section 1.02 APPENDICES, EXHIBITS AND ATTACHMENTS is amended, in part, as follows:

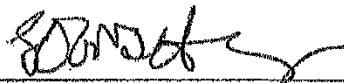
The appendices, exhibits and schedules to this Contract attached to this Contract are incorporated by this reference into this Contract. Exhibit C, partially governing General Terms and Conditions, is hereby incorporated and attached.


Additions to this text are shown by underline and deletions by ~~((strikeout))~~. All other terms and conditions remain in full force and effect. The effective date of this amendment is July 1, 2017.

THIS CONTRACT AMENDMENT, consisting of one (1) page, and one (1) attachment, is executed by the persons signing below who warrant that they have the authority to execute the contract.

VALUE-ADDED COMMUNICATIONS

DEPARTMENT OF CORRECTIONS


(Signature)
Jeffrey B. Haidinger
(Printed Name)
President - Chief of Business Solutions
(Title)
11/28/17
(Date)


(Signature)
John R. Nispel
(Printed Name)
Contracts Administrator
(Title)
11/29/17
(Date)

Approved as to Form:
This amendment format was approved by the office of the Attorney General.
Approval on file.

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
PARTIAL GENERAL TERMS AND CONDITIONS

PUBLIC RECORDS ACT

- 1.1 This Agreement and all records associated with the performance of this Agreement shall be available from the Department for inspection and copying by the public when required by the Public Records Act, Chapter 42.56 RCW (the "Act").
- 1.2 If records in the custody of the Contractor are needed by the Department to respond to a request under the Act, as determined by the Department, the Contractor agrees to make them promptly available to the Department. Upon request by the Department, the Contractor further agrees to provide a detailed index of records associated with its performance of the contract. This index will allow for more efficient and accurate identification of potentially responsive records.
- 1.3 If the Contractor considers any portion of any record associated with the Contractor's performance under this Agreement to be protected from disclosure under law, the Contractor shall clearly identify the specific information that it claims to be confidential or proprietary when the records are provided to the Department in response to a public records request. The Department retains sole discretion in the appropriateness and application of withholdings and redactions on all records.
- 1.4 If the Department receives a request under the Act to inspect or copy information identified by the Contractor as confidential or proprietary and the Department determines that release of the information is required by the Act or otherwise is appropriate, the Department's sole obligation shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the Department will release the requested information on the date specified with whatever withholdings and redactions it deems proper.
- 1.5 The Department is not obligated to claim any exemption from disclosure under the Act on behalf of the Contractor. The Department shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The Department shall not be liable to the Contractor for releasing any records in compliance with this section, in compliance with the Act, or in compliance with an order of a court of competent jurisdiction.

EQUALITY IN COMPENSATION

- 1.6 The contractor must ensure that similarly employed individuals in its workforce are compensated as equals, consistent with the following:
Employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
Contractor may allow differentials in compensation for its workers based in good faith on any of the following:
 - i. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.

- ii. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience, that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
 - iii. A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.
- 1.7 This Contract may be terminated if the Department determines that the contractor is not in compliance with this provision.