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TERRI ROSS  
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2016 DEC 15 AM 9:59  
UPSHUR COUNTY, TX.  
BY [Signature]  
DEPUTY

Inmate Telephone Service Agreement

CONTRACT BETWEEN THE COUNTY OF UPSHUR AND NCIC, INMATE TELEPHONE SERVICES, INC.

This NCIC Inmate Telephone Services Subscriber Agreement ("Agreement") is made this 31<sup>st</sup> day of October, 2016, by and between NCIC Inmate Telephone Services, (Provider), a Texas corporation, having its principal place of business at 607 E Whaley St., Longview, Texas 75601, and the SUBSCRIBER, Upshur County, having its principal place of business at:

Address: 405 North Titus Street

City, State: Gilmer, Texas Zip: 75644

Contact: Dean Fowler, County Judge

Phone: 903-680-8113

Email: dean.fowler@countyofupshur.com

WITNESSETH

Whereas, the Subscriber is responsible for the inmates and for the operation of, and supervisory and protective care, custody and control of, all buildings, grounds, property and matters connected with the facility. Whereas, the Provider is a qualified and willing participant with the Subscriber to provide inmate telephone communication services; In consideration of the mutual benefits to be derived hereby, the Subscriber and the Provider do hereby agree as follows:

I. TERM

(A). This agreement shall begin on the date signed by both parties (Effective Date) and continue in full force and effect for a minimum period of sixty months (60) from such date with options to renew for one (1) twelve (12) month period under same terms and conditions if notice of termination is not received ninety (90) days prior to completed initial minimal term or any renewal term. In the event this Contract is signed by the parties on different dates, the latter date shall control.



## II. SCOPE OF SERVICE

### (A). **Inmate Telephone System**

Provider shall provide at no cost a fully operational, local and long distance, secure and reliable Inmate Telephone System (ITS). The ITS system shall be inclusive of all equipment, installation, infrastructure and network, training, operation, and ongoing repairs and maintenance of the entire system and its components which, at a minimum, shall meet the Subscriber's requirements and be in compliance with any industry standard.

### (B). **Payment**

NCIC will forward the Minimum Annual Guarantee of \$73,000 to Upshur County upon activation of the inmate phone system and again at the beginning of the annual contract effective date each year for the term of the contract. Upshur County will also receive 60% of gross revenue originating from the facility on all revenue generated over the Minimum Annual Guarantee, not to include federal, state and local taxes and any other cost recovery mechanism (s).

At the end of each contract year, NCIC shall reconcile actual earned commissions to the Minimum Annual Guarantee payment and additional earned commission (60%) will be paid within 30 days of the end of the applicable contract year.

### (C) **Rules and Regulations (General)**

1. The Provider shall adhere to any and all municipal, state or federal requirements for ITS installation, certification, training or registration during the life of the agreement.
2. The Provider shall be responsible for compliance with all FCC regulatory requirements imposed by local, state and federal regulatory agencies for all ITS and related services provided throughout the duration of the agreement. Provider reserves the right to decrease commission payments in the event of decreased rates and fees by any local, state or federal agency that adversely effects profitability.
3. The Provider shall be responsible for making all ITS modifications necessary to allow inmates to place calls in compliance with any industry dialing requirement change(s) at no cost to the subscriber.
4. The Provider shall be responsible for complying with and updating the ITS for any regulatory changes and requirements during the life of the agreement. These changes include federal, state or local municipal modifications. These changes shall be made within a reasonable time frame at no cost to the subscriber.

### (D). **Provider's Responsibilities**

1. A comprehensive inmate telephone service that will allow for collect and prepaid calls for local, intrastate, interstate and international calls.



2. A ITS system, which includes, but is not limited to, system infrastructure, network, database, servers, new call processors, digital and analog communications circuits, telecommunications capabilities, monitoring, and any additional required system functionality;
3. Installation of new telephone equipment at all included facilities and any required station cabling as determined necessary;
4. Systems and equipment that support the Facility's call monitoring/security needs, including terminals, and digital recording equipment as determined necessary;
5. Centralized database which shall contain all data elements necessary for provision of monitoring services, reporting and historical call transaction information;
6. Provider personnel to include field repair/site technicians to perform oversight, operational assistance and maintenance and repair to the ITS system and equipment;
7. Ongoing maintenance, repair, and/or replacement and/or upgrades of all equipment and systems as determined necessary to ensure service delivery;
8. Provision of all required training and instructional materials required for use of the telephone services as applicable to inmates, families, and/or facility staff; and
9. Provision of all related support services not otherwise indicated herein.
10. Commission payments on ALL calls gross revenue and provide monthly revenue statement, upon request.

**(E). Installation (General)**

All required materials, equipment, hardware, software and station cabling (where re-use is unavailable or new locations are required) for installation and maintenance of the ITS shall be provided by the Provider. Wherever possible, the Provider shall re-use existing station cabling installed at each Facility for the telephone instruments. In cases where existing station cabling cannot be used, the Provider shall install new station cabling (Category 3 minimum) at no cost. Any new cabling shall include wall plate, cross connection, patch cords, etc. as required. The Provider shall comply with all applicable electrical codes. The Provider shall comply with the security guidelines on institutional security policies. The Provider shall provide all coordination required with local bandwidth provider and other carriers during installation and for the duration of the agreement.

**(F). System Functionality (General)**

The Provider shall provide an Inmate Telephone Service (ITS) with a system fully supported by an infrastructure which has the capability to provide specified services such as secure and real-time monitoring of telephone calls. The ITS shall contain security features, which prevent unauthorized individuals from accessing any information held by the provider. Secure access to the system and the database shall be maintained at all times. The Provider shall provide complete support of all systems and software necessary to ensure provision of services at all times for the duration of the resulting agreement. The system shall contain an automated announcement function capable of processing calls on a selective bi-lingual basis: English and Spanish. During the call set-up process, the system shall provide a customized pre-recorded announcement identifying that the call is from a correctional facility.



**(G). Telephone Equipment**

Throughout the term of the agreement, the Provider shall own all systems and equipment and shall conduct all maintenance, repairs, upgrades and replacement to systems and equipment at no cost.

**(H). Equipment Service & Maintenance**

The Provider shall provide equipment to support service delivery as specified herein at all designated facilities that are fully functional in regards to all labor, materials, service hardware and/or software. The Provider shall further warrant that any equipment installed for the subscriber shall be free of defects, irregularities, code violations and shall operate as designed and proposed or negotiated. Should the equipment not operate as designed and proposed or negotiated, or violate any local, state or federal code, rule or ordinance, the Provider shall correct the defect or irregularity or bring the service to within code, rule or ordinance at no cost to the subscriber including payment for any fines or penalties associated therewith. Time is of the essence in completing emergency and other service repairs or replacements. Thus, the Provider is required to meet all response times as required by the facility to return the system to normal operating status. In the event of extraordinary obstacles to service for which the Provider exceeds the time-to-service requirement, notification and a detailed plan of service shall be provided to the facility.

**III. General Policies**

**(A). Termination**

Either party may terminate this agreement for cause prior to expiration of the initial term if there is an alleged breach of the term(s) by the offending party. If a breach of this agreement occurs by the Provider, the Subscriber may, by written notice, send a demand letter to cure breach within thirty (30) days. The cure period may be extended to a mutually agreeable date up to ninety Days (90), if the default cannot be reasonably cured within the specified time and if the defaulting party has begun to cure the default. Notice shall be delivered by certified mail (return receipt requested), by other method of delivery whereby an original signature is obtained, or in-person with proof of delivery.

**(B). Indemnification**

The Provider shall be liable, and agrees to be liable for, and shall indemnify, defend and hold the Facility, its employees, agents, officers, heirs, and assignees harmless from any and all claims, suits, judgments, or damages including court costs and attorney's fees arising out of intentional acts, negligence, or omissions by the Provider, or its employees or agents, in the course of the operations of this Contract.

**C). Provider's Insurance**

The Provider agrees to provide adequate insurance coverage on a comprehensive basis and to hold such insurance at all times during the existence of this agreement.



(D). Assignment

In the event that Provider transfers authority of the facility covered by this agreement, there shall be no required consent by the Subscriber to the assignment of this agreement.

(E). Force Majeure

Neither party shall be liable for loss or damage suffered as a result of any delay or failure in performance under this Contract or interruption of performance resulting directly or indirectly from acts of God, fire, explosions, earthquakes, floods, water, wind, lightning, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, strikes, or labor disputes.

(F). Severability

The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof and this Contract shall be construed in all respects as if such invalid or unenforceable provision was omitted, so long as the material purposes of this Contract can still be determined and effectuated.

(G). Governing Law

This agreement is executed and entered into in the State of Texas, and shall be construed performed and enforced in all respects in accordance with the laws, rules and regulations of the State of Texas.

(H). No Third Party Beneficiaries

Except as otherwise expressly provided herein, neither this agreement, nor any amendment, addendum or exhibit attached hereto, nor term, provision or clause contained therein, shall be construed as being for the benefit of, or providing a benefit to any party not a signatory hereto.

(I). Exclusivity

During the term of this agreement, Subscriber agrees to grant Provider exclusive rights to install and maintain an ITS for all facilities owned and future facilities operated or governed by Subscriber.

SUBSCRIBER

PROVIDER

*Dean Fowler*  
Signature  
DEAN FOWLER  
Print Name  
UPSHUR COUNTY JUDGE  
Title  
11/30/16  
Date

*Douglas Moran*  
Signature  
DOUGLAS MORAN  
Print Name  
REGIONAL SALES  
Title  
11/30/16  
Date



**RATE & COMMISSION OPTIONS**

Option 1:

CALL TYPE	COLLECT		PREPAID		DEBIT	
	CONNECTION	PER MINUTE	CONNECTION	PER MINUTE	CONNECTION	PER MINUTE
LOCAL	\$0.00	\$0.30	\$0.00	\$0.30	\$0.00	\$0.30
INTRALATA/INTRASTATE	\$0.00	\$0.30	\$0.00	\$0.30	\$0.00	\$0.30
INTERLATA/INTRASTATE	\$0.00	\$0.30	\$0.00	\$0.30	\$0.00	\$0.30
INTERLATA/INTERSTATE	\$0.00	\$0.25	\$0.00	\$0.21	\$0.00	\$0.21
INTERNATIONAL	\$0.00	\$0.50	\$0.00	\$0.50	\$0.00	\$0.50
COMMISSION RATE/ MINIMUM ANNUAL GUARANTEE	1) NCIC will pay Upshur County a <b>Minimum Annual Guarantee of \$73,000.</b> (Upshur County will receive the Minimum Annual Guarantee in full upon activation of the inmate phone system and then again at the beginning of the annual contract effective date for the term of the contract.) 2) NCIC will also pay Upshur County <b>60%</b> gross commission on all revenue originating from the facility over the Minimum Annual Guarantee. 3) NCIC will also pay Upshur County <b>60%</b> gross commission on all revenue generated from the Inmate Voice Messaging System. (All messages are \$.50 per message.)					

[Signature]  
Signature

[Signature]  
Signature

DEAN FOWLER  
Print Name

DOUGLAS MORAN  
Print Name

UPSHUR COUNTY JUDGE  
Title

REGIONAL SALES  
Title

11/30/16  
Date

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