

PROFESSIONAL SERVICES CONTRACT

THURSTON COUNTY/TELMATE.

THIS CONTRACT is entered into in duplicate originals between **THURSTON COUNTY**, a municipal corporation, with its principal offices at 2000 Lakeridge Drive S.W., Olympia, Washington 98502, hereinafter "**COUNTY**," and Telmate, with its principal offices at 1108 SE 6th Street, Ontario, Oregon hereinafter "**CONTRACTOR**."

In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. DURATION OF CONTRACT

The term of this Contract shall begin no later than January 1, 2011, and shall terminate on December 31, 2011. The contract may be extended for (4) one year terms at the County's option by providing written notice prior to the expiration of each (1) one year term.

2. SERVICES PROVIDED BY THE CONTRACTOR

The **CONTRACTOR** represents that it is qualified and possesses the necessary expertise, knowledge, training, and skills, and has the necessary licenses and/or certification to perform the services set forth in this Contract.

The **CONTRACTOR** shall perform the following services:

Provide the Corrections Facility with an inmate telephone system.

- a. A detailed description of the services to be performed by the **CONTRACTOR** is set forth in Exhibit A, which is attached hereto and incorporated herein by reference.
- b. The **CONTRACTOR** agrees to provide its own labor and materials. Unless otherwise provided for in the Contract, no material, labor, or facilities will be furnished by the **COUNTY**.
- c. The **CONTRACTOR** shall perform according to standard industry practice of the work specified by this Contract.
- d. The **CONTRACTOR** shall complete its work in a timely manner and in accordance with the schedule agreed to by the parties.
- e. The **CONTRACTOR** shall, from time to time, during the progress of the work, confer with the **COUNTY**. At the **COUNTY'S** request, the **CONTRACTOR** shall prepare and present status reports on its work.

3. SERVICES PROVIDED BY THE COUNTY

In order to assist the **CONTRACTOR** in fulfilling its duties under this Contract, the **COUNTY** shall provide the following:

- a. Relevant information as exists to assist the **CONTRACTOR** with the performance of the **CONTRACTOR'S** services.
- b. Coordination with other County Departments or other Consultants as necessary for the performance of the **CONTRACTOR'S** services.

c. Services documents, or other information identified in Exhibit "A".

4. CONTRACT REPRESENTATIVES

Each party to this Contract shall have a contract representative. Each party may change its representative upon providing written notice to the other party. The parties' representatives are as follows:

a. For CONTRACTOR:

Name of Representative: Kevin O'Neil

Title: President

Mailing Address: 1108 SE Sixth Street

City, State and Zip Code: Ontario, OR 97914

Telephone Number: 208-739-8333

Fax Number:

E-mail Address: Kevin@telmate.com

b. For COUNTY:

Name of Representative: Todd Thoma

Title: Chief Deputy of Corrections

Mailing Address: 2000 Lakeridge Dr SW

City, State and Zip Code: Olympia, WA 98502

Telephone Number: 360-786-5505

Fax Number: 360-357-2840

E-mail Address: thomat@co.thurston.wa.us

5. COMPENSATION

The commission payable by the CONTRACTOR shall be paid based upon mutually agreed rates contained in Exhibit "B" which is attached hereto and incorporated herein by reference.

6. AMENDMENTS AND CHANGES IN WORK

a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.

b. No amendment, modification or renewal shall be made to this Contract unless set forth in a written Contract Amendment, signed by both parties and attached to this Contract. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTY.

7. HOLD HARMLESS AND INDEMNIFICATION

a. The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, losses, expenses, damages, and judgments of any nature whatsoever, including costs and attorneys fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the CONTRACTOR'S acts, errors or omissions or the acts, errors or omissions of its employees, agents, subcontractors or anyone for whose acts any of them may be liable, in the performance of this Contract. Claims shall include, but not be limited to, assertions that information supplied or used by the CONTRACTOR or subcontractor infringes any patent, copyright, trademark, trade name, or otherwise results in an unfair trade practice. PROVIDED HOWEVER, that the CONTRACTOR'S obligations hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the COUNTY, its officers, officials, employees or agents. PROVIDED FURTHER, that in the event of the concurrent negligence of the parties, the CONTRACTOR'S obligations hereunder shall apply only to the percentage of fault attributable to the CONTRACTOR, its employees, agents or subcontractors.

b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Worker's Compensation acts, disability benefits acts, or other employee benefits acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under Title 51 RCW. By executing the Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder.

c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, the CONTRACTOR'S employees, agents or subcontractors.

8. INSURANCE

a. **Professional Legal Liability:** The CONTRACTOR, if he is a licensed professional, shall maintain Professional Legal Liability or Professional Errors and Omissions coverage appropriate to the CONTRACTOR'S profession and shall be written subject to limits of not less than \$1,000,000 occurrence.

The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the CONTRACTOR'S services defined in this Contract. Coverage shall not exclude bodily injury or property damage. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the CONTRACTOR'S services as defined by this Contract including testing, monitoring, measuring operations, or laboratory analysis where such services are rendered as part of the Contract.

b. **Workers' Compensation (Industrial Insurance):** The CONTRACTOR shall maintain workers' compensation insurance as required by Title 51 RCW, and shall provide evidence of coverage to the Thurston County Risk Management Division.

The CONTRACTOR shall send to Thurston County at the end of each quarter written verification that premium has been paid to the Washington State Department of Labor and Industries for Industrial Insurance

coverage. Alternatively, the CONTRACTOR shall provide certification of approval by the Washington State Department of Labor and Industries if self-insured for Workers Compensation.

c. Commercial General Liability: The CONTRACTOR shall maintain Commercial General Liability coverage for bodily injury, personal injury and property damage, subject to limits of not less than \$1,000,000 per loss. The general aggregate limit shall apply separately to this Contract and be no less than \$2,000,000.

- i. The CONTRACTOR shall provide Commercial General Liability coverage which does not exclude any activity to be performed in fulfillment of this Contract. Specialized forms specific to the industry of the CONTRACTOR will be deemed equivalent provided coverage is no more restrictive than would be provided under a standard Commercial General Liability policy, including contractual liability coverage.
- ii. The CONTRACTOR'S Commercial General Liability insurance shall include the COUNTY, its officers, officials, employees and agents with respect to performance of services, and shall contain no special limitations on the scope of protection afforded to the COUNTY as additional insured.
- iii. The CONTRACTOR shall furnish the COUNTY with evidence that the additional insured provision required above has been met. An acceptable form of evidence is the endorsement pages of the policy showing the COUNTY as an additional insured.
- iv. If the CONTRACTOR'S liability coverage is written as a claims made policy, then the CONTRACTOR must evidence the purchase of an extended reporting period or "tail" coverage for a three-year period after project completion, or otherwise maintain the coverage for the three-year period.
- v. If the Contract is over \$50,000 then the CONTRACTOR shall also maintain Employers Liability Coverage with a limit of not less than \$1 million.

d. Automobile Liability: The CONTRACTOR shall maintain Business Automobile Liability insurance with a limit of not less than \$25,000 each accident combined Bodily Injury and Property Damages. Coverage shall include owned, hired and non-owned automobiles.

e. Other Insurance Provisions:

- i. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY, its elected and appointed officers, officials, employees and agents.
- ii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.
- iii. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- iv. The CONTRACTOR shall include all subcontractors as insured(s) under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
- v. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.

- vi. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced.

f. Verification of Coverage and Acceptability of Insurers: The CONTRACTOR shall place insurance with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-, with the exception that excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be placed with insurers or re-insurers licensed in the State of Washington.

- i. Certificates of Insurance shall show the Certificate Holder as Thurston County and include c/o of the Office or Department issuing the Contract. The address of the Certificate Holder shall be shown as the current address of the Office or Department.
- ii. Written notice of cancellation or change shall be mailed to the COUNTY at the following address:

Attn: Risk Analyst
Human Resources
2000 Lakeridge Drive S.W.
Olympia, Washington 98502

- iii. The CONTRACTOR shall furnish the COUNTY with properly executed certificated of insurance or a signed policy endorsement which shall clearly evidence all insurance required in this section prior to commencement of services. The certificate will, at a minimum, list limits of liability and coverage. The certificate will provide that the underlying insurance contract will not be canceled or allowed to expire except on thirty (30) days prior written notice to the COUNTY.
- iv. The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Thurston County Risk Management Division.

9. TERMINATION

- a. The COUNTY may terminate this Contract for convenience in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving ten (10) days written notice by Certified Mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for all costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Section 5 of this Contract.
- b. In the event that funding for this project is withdrawn, reduced or limited in any way after the effective date of this Contract, the COUNTY may summarily terminate this Contract notwithstanding any other termination provision of the Contract. Termination under this paragraph shall be effective upon the date specified in the written notice of termination sent by the COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract are allowable.
- c. If the CONTRACTOR breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the COUNTY, the COUNTY may terminate this Contract, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with Section 5 of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs

and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach. If, subsequent to termination, it is determined for any reason that (1) the CONTRACTOR was not in default, or (2) the CONTRACTOR'S failure to perform was not its fault or its subcontractor's fault or negligence, the termination shall be deemed to be a termination under subsection a of this section.

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

a. The CONTRACTOR shall perform the terms of the Contract using only its bona fide employees or agents who have the qualifications to perform under this Contract. The obligations and duties of the CONTRACTOR under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the COUNTY.

b. The CONTRACTOR warrants that it has not paid nor has it agreed to pay any company, person, partnership, or firm, other than a bona fide employee working exclusively for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

11. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this Contract does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving party to enforce any of the provisions of this Contract at a later time.

12. INDEPENDENT CONTRACTOR

a. The CONTRACTOR'S services shall be furnished by the CONTRACTOR as an Independent Contractor and not as an agent, employee or servant of the COUNTY. The CONTRACTOR specifically has the right to direct and control CONTRACTOR'S own activities in providing the agreed services in accordance with the specifications set out in this Contract.

b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and the CONTRACTOR is not entitled to any County benefits, including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to Thurston County employees.

c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent or representative of the CONTRACTOR shall be or deem to be or act or purport to act as an employee, agent or representative of the COUNTY.

d. The CONTRACTOR shall assume full responsibility for the payment of all payroll taxes, use, sales, income or other form of taxes, fees, licenses, excises, or payments required by any city, county, federal or state legislation which is now or may during the term of this Contract be enacted as to all persons employed by the CONTRACTOR and as to all duties, activities and requirements by the CONTRACTOR in performance of the work on this project and under this Contract and shall assume exclusive liability therefore, and meet all requirements thereunder pursuant to any rules or regulations.

e. The CONTRACTOR agrees to immediately remove any of its employees or agents from assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S contract representative or designee.

13. COMPLIANCE WITH LAWS

The CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract.

14. INSPECTION OF BOOKS AND RECORDS

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep all records required by this Contract for six (6) years after termination of this Contract for audit purposes.

15. NONDISCRIMINATION

The CONTRACTOR, its assignees, delegates or subcontractors shall not discriminate against any person in the performance of any of its obligations hereunder on the basis of race, color, creed, ethnicity, religion, national origin, age, sex, marital status, veteran status, sexual orientation or the presence of any disability. Implementation of this provision shall be consistent with RCW 49.60.400.

16. OWNERSHIP OF MATERIALS/WORK PRODUCED

a. Material produced in the performance of the work under this Contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the COUNTY. This material includes, but is not limited to, books, computer programs, plans, specifications, documents, films, pamphlets, reports, sound reproductions, studies, surveys, tapes, and/or training materials. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. The COUNTY agrees that if it uses any materials prepared by the CONTRACTOR for purposes other than those intended by this Contract, it does so at its sole risk and it agrees to hold the CONTRACTOR harmless therefore to the extent such use is agreed to in writing by the CONTRACTOR.

b. An electronic copy of all or a portion of material produced shall be submitted to the COUNTY upon request or at the end of the job using the word processing program and version specified by the COUNTY.

17. DISPUTES

Differences between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S contract representative shall be final and conclusive, subject to the CONTRACTOR'S right to seek judicial relief pursuant to Section 18.

18. CHOICE OF LAW, JURISDICTION AND VENUE

a. This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

b. Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Thurston County, Washington.

19. SEVERABILITY

a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

b. If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

c. Should the COUNTY determine that the severed portions substantially alter this Contract so that the original intent and purpose of the Contract no longer exists, the COUNTY may, in its sole discretion, terminate this Contract.

20. ENTIRE AGREEMENT

The parties agree that this Contract is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this Contract are specifically excluded.

21. NOTICES

Any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in Section 4. Notice may also be given by facsimile with the original to follow by regular mail. Notice shall be deemed to be given three days following the date of mailing or immediately if personally served. For service by facsimile, service shall be effective upon receipt during working hours. If a facsimile is sent after working hours, it shall be effective at the beginning of the next working day.

The parties hereto acknowledge that the waiver of immunity set out in Section 7.b. was mutually negotiated and specifically agreed to by the parties herein.

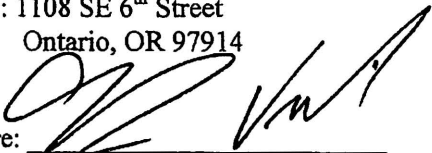
CONTRACTOR:

Firm: Telmate

By: Kevin O'Neil

Title: President

Address: 1108 SE 6th Street
Ontario, OR 97914

Signature: 

(Authorized Representative)

Date


11/17/2010

FOR THE COUNTY:

By: Dan Kimball

Title: Sheriff

Thurston County, Washington

Signature: 

Date

11/19/2010

Approved as to Form by the Prosecuting Attorney's Office
Reviewed 1/5/05

EXHIBIT A

PROFESSIONAL SERVICES CONTRACT

THURSTON COUNTY/TELMATE

SCOPE OF SERVICES

1. The services to be performed by the CONTRACTOR under this Contract, which are described in Section 2 of the Contract (SERVICES PROVIDED BY THE CONTRACTOR), are set forth as follows:
 - a. Install inmate telephones, associated equipment, wiring, hardware, enclosures and hands free inmate telephones at locations mutually agreed upon by both parties. The CONTRACTOR shall be required to increase or decrease the number of phones in the system upon reasonable request at no cost to the COUNTY after the initial installation.
 - b. Jointly determine with the COUNTY the appropriate number and type of inmate telephones and enclosures to be installed at each location.
 - c. Service and repair the inmate telephones and associated equipment provided by the CONTRACTOR, at the CONTRACTOR'S expense, except as otherwise agreed upon herein.
 - d. The CONTRACTOR acknowledges responsibility to comply with the Americans with Disabilities Act (ADA) as it relates to the CONTRACTOR provided equipment.
 - e. The CONTRACTOR shall provide toll-free phone support to the COUNTY in order to assist the COUNTY in executing system functions and in troubleshooting.
 - f. The CONTRACTOR shall provide a primary technician that will provide all normal and preventative maintenance. The CONTRACTOR shall designate VISION IT, Inc., PO Box 111688 Tacoma, WA 98411 (800) 948-0460 as the primary technician.
 - g. The CONTRACTOR shall provide service within 4 hours from call, 24 hours a day, 7 days per week in case of significant system failure, including multi station failure.
 - h. The CONTRACTOR shall provide service within 24 hours from request for service for minor system problems, such as a single phone failure or routine service calls.
 - i. The CONTRACTOR shall replace inoperable equipment within 48 hours from the call.
 - j. The CONTRACTOR shall have staff available 24 hours a day to provide consultation and technical support by phone as needed.
 - k. The CONTRACTOR shall full warranty on all proposed hardware and software.
 - l. The CONTRACTOR shall install any improved or updated software versions issued by the manufacturer at no cost to the COUNTY.
 - m. The CONTRACTOR shall provide on-site training at no cost to the COUNTY.
 - n. The CONTRACTOR shall ensure that facility inmate worker telephones allow free local phone call

on a daily basis as defined by the COUNTY but limited to no more than one free phone call per day per local number with the day beginning at 0001 and ending at 2400 hours.

- o. The CONTRACTOR shall provide inmate visitation phones at no cost to the COUNTY.
- p. The CONTRACTOR shall provide The Telmate Phone system to include twelve (12) months on-line recording, live monitoring and reporting tools:
 - Full Channel Integrated Recording (from the moment the inmate goes off hook)
 - Live Monitoring (accessible via standard Internet Explorer)
 - Full Call detail Reporting (including charges per call for commission calculations)
 - CD/DVD utility (allowing for portability and backup of conversations)
 - Virtual Private Network (VPN – enabling access to the Telmate system anywhere anytime)
 - Prepaid Collect Options (allows for lower cost calling)
 - Inmate PIN system integrated with the booking system
 - Inmate Voice Recognition (when development is completed)
 - Multi-Level Security Capabilities
 - KIOSK
- q. The CONTRACTOR shall provide installation of the Telmate Phone System and replacement of the existing inmate telephones.
- r. The CONTRACTOR shall provide training as required by the Thurston County Sheriff's Office.

2. The services to be performed by the COUNTY under this Contract, which are described in Section 3 of the Contract (SERVICES PROVIDED BY THE COUNTY) are set forth as follows (if applicable):

- a. To provide adequate space for inmate telephones and enclosures which is easily accessible to the inmates during the normal operating hours of the COUNTY. In the event the COUNTY is not the owner of the premises, the COUNTY shall, where necessary, obtain permission from the building owner or owner's agent for the placement of the CONTRACTOR'S inmate telephones, and shall be responsible for any fee for use of required riser cable and electric power.
- b. Maintain the area around the inmate telephones and enclosures and ensure safe and ready access by the inmates and the CONTRACTOR.
- c. Allow the CONTRACTOR access to perform maintenance during the established hours of accessibility jointly agreed to by the COUNTY and the CONTRACTOR, except when accessibility must be denied to ensure the safety of the CONTRACTOR'S personnel and/or to maintain institutional control.
- d. Exercise reasonable care to prevent the loss through theft and any damage to the inmate telephones from any source.
- e. The CONTRACTOR is and shall remain the owner of the inmate telephones, associated equipment, wiring, hardware provided by the CONTRACTOR whether or not physically attached to real estate.

EXHIBIT "C"
PROFESSIONAL SERVICES CONTRACT
THURSTON COUNTY/TELMATE

The CONTRACTOR shall be required to meet the COUNTY'S standard of performance, as specified in the following, for the system installation:

1. If the equipment performs as required by the COUNTY for a period of thirty (30) consecutive days from the commencement date of the performance period, it shall be deemed to have met the COUNTY'S standard of performance and shall constitute a successful performance period. Failure of the performance test shall be deemed to have occurred when any common system requirement, feature or components does not perform in accordance with the manufacturer's specifications.
2. If the system fails to meet the standard of performance during a performance period, the CONTRACTOR and the COUNTY can mutually agree to begin another performance period. It is not required that one thirty (30) day period expire in order for another performance period to begin.
3. Immediately upon successful completion of the performance period, the COUNTY shall notify the CONTRACTOR in writing of acceptance of the equipment and authorize the warranty to take effect as of the first day of the successful performance period.
4. If successful completion of the performance period is not attained within 45 days of the installation date, the County shall have the option of terminating the contract, rejecting the failing unit(s), or continuing the performance tests. The COUNTY'S option to terminate the contract shall remain in effect until such time as a successful completion of the performance period is attained.
5. During the performance period, the COUNTY may require the CONTRACTOR to replace a system component that has failed the performance requirements. A new performance period will begin with installation of any replacement component. The COUNTY and CONTRACTOR must mutually agree on the replacement.

EXHIBIT "D"

PROFESSIONAL SERVICES CONTRACT

THURSTON COUNTY/TELMATE

TERMINATION

CALCULATION OF DAMAGES

Telephone Equipment Investment: The termination charge shall be \$318.45 for each new inmate telephone, reduced by \$26.54 for each month the inmate telephone is in service after the installation date. The termination charge shall be \$420.00 for each new indoor public telephone, reduced by \$35.00 for each month the indoor public telephone is in service after the installation date.

	Inmate	Indoor
Net Unamortized Capital	\$173.69/set	\$176.00/set
Installation Cost	\$144.76/set	\$159.00/set
Removal Cost	\$ N/A/set	\$ 85.00/set
Total	\$318.45/set	\$420.00/set

EXHIBIT B

PROFESSIONAL SERVICES CONTRACT

THURSTON COUNTY/TELMATE

COMPENSATION

1. The CONTRACTOR'S compensation under this Contract, which is described in Section 5 of the Contract (COMPENSATION), is set forth as follows:
 - a. Commissions will be paid by the CONTRACTOR to the COUNTY based on gross call revenues. No deductions from uncollectible calls, inability to bill, bad debt or any other costs associated with the provision of the inmate phone system may be considered in commission calculation.
 - b. The CONTRACTOR shall pay sixty-five percent (65%) of gross billed revenue with no deductions on all collect phone calls.
 - c. The CONTRACTOR shall pay sixty-five (65%) of all prepaid, collect, and debit card revenue with no deductions.
 - d. The CONTRACTOR will issue a commission check to the County within forty-five (45) days following the close of the previous calendar month.
 - e. The CONTRACTOR shall not charge to the COUNTY any fees, billing and collection expenses, installation and equipment costs, liability for fraudulent use of telephones, uncollectable billings, carrier fees, governmental fees and any other direct or indirect costs associated with providing the telephone system.
2. The CONTRACTOR'S response to the COUNTY'S "RFP" is hereby incorporated by reference. The CONTRACTOR is obligated to compensate the COUNTY as addressed in their response to the "RFP" not specifically set forth above.