

INMATE PAY TELEPHONE AGREEMENT

This Inmate Pay Telephone Agreement (the "Agreement") is made as of the 17th day of October 2003, by and between the Kendall County Sheriff's Office ("Customer") located at 1102 Cornell Lane, Yorkville, IL 60560 and Evercom Systems, Inc. ("Evercom") located at 8201 Tristar Drive, Irving, Texas 75063.

1. **Utilization of Facility.** The Customer, for and in consideration of the payment of the Commission (as hereinafter defined) and the services to be provided by Evercom, grants Evercom the exclusive right and license to install and maintain an Inmate Telecommunications System governing all inmate calls, including local and long distance traffic for collect calling and potentially debit calling, and inter-related hardware and software, (collectively "Evercom Equipment") within all pre-existing and future jail and/or detention facilities (collectively the "Facility"), and hereby releases the Facility for that purpose, upon the terms and conditions set forth in this Agreement. The Customer covenants and agrees to make the Facility available to Evercom for complete installation and operation of the Equipment.

2. **Compensation.** In consideration of the right to install and operate the Equipment within the Facility, Evercom agrees to pay the Customer Fifty-Four Percent (54%) of the Gross revenue from the collect calls, (does not include debit), billed by inmates within the Facility (the "Commission") and a \$10,000.00 signing bonus. Gross Revenue shall mean the gross billable (actual local and long distance calls billed via a local exchange carrier) revenue produced from the inmate calls during said month of service. The Commission shall be paid to the Customer on a monthly basis, as set forth in Section 3 below. The Customer herein agrees that any current or future use of prepaid calling services (Debit) will be covered by a separate Letter Of Agreement.

3. **Payment and Accounting.** Evercom agrees to pay the Customer the Commission on a monthly basis. The commissions shall be paid no later than sixty days following the month in which revenues were generated from the Equipment during the term of this Agreement. All commission payments shall be final and binding upon the Customer unless written objection thereto is received by Evercom within sixty days of mailing of the Commission payment to Customer by Evercom.

4. **Maintenance and Repair.** During the term of this Agreement, Evercom will repair and maintain the Equipment in good operating condition, including without limitation, furnishing all parts and labor, at its sole cost and expense, all such maintenance shall be conducted in a timely manner, (usually within 24 hours). The Customer shall permit employees or contractors of Evercom reasonable access to the Facility in order to service, repair and maintain the Equipment. The Customer shall notify Evercom of any misuse, destruction, damage or vandalism to the Equipment, as soon as practicable after ascertaining the same. Evercom, by providing equipment or service from third party vendors makes no representation or warranty with respect to such service or equipment and, unless expressly stated herein, makes no commitment to maintain or service such equipment hereafter, all such arrangements should be made by Customer and third party vendor.

5. **Liability Insurance.** Evercom agrees to maintain comprehensive general liability insurance coverage having limits of not less than \$1,000,000.00 in the aggregate. The Customer agrees to provide Evercom with reasonable and timely notice of any claim, demand or cause of action made or brought against the Customer arising out of, or related to, the utilization of the Equipment. Evercom shall have the right to defend any such claim, demand or cause of action at its sole cost and expense and within its sole and exclusive discretion. The Customer agrees not to compromise or settle any claim or cause of action arising out of or related to the utilization of the Equipment without the prior written consent of Evercom. In no event shall the Customer be liable for any damage or destruction to any item of the Equipment.

6. **Term of Agreement.** The obligations of the parties under this Agreement are effective as of the date hereof, but the term of this Agreement shall commence upon the date of execution (the "Commencement Date"). This Agreement shall remain in force and effective for Five (5) years from the Commencement Date hereafter known as the initial term which shall have an expiration date of (M)10, (D)16, (Y)2008. Unless canceled by written notice delivered to either party at least ninety (90) days prior to the termination of the initial term or any renewal term of this Agreement, this Agreement shall automatically renew at the end of the initial term upon the same terms and conditions as set forth herein. Upon cancellation by the Customer after the initial term or any extended term, Evercom has the right to match the financial and service conditions of any competitive proposal under consideration, and upon notification of

Evercom's promise to match the proposal, may retain the business for an additional term. If, because of strikes, riots, wars or for any other reason, business operations at the Facility shall be interrupted for periods of time other than as is customary for operations conducted at the Facility, the expiration of the term of this Agreement shall be extended for a period of time equal to the period of such extraordinary interruption or stoppage of business operations.

7. Event of Default, Termination of Agreement. In the event either party defaults in the performance of any of its obligations under this Agreement, the non-defaulting party shall give the defaulting party written notice of default setting forth with specificity the nature of the event of default. In the event the defaulting party fails to cure such event of default within thirty days from receipt of the notice of default, the non-defaulting party shall have the right to terminate this Agreement and pursue all other remedies available to the non-defaulting party, either at law or in equity. If the performance of this Agreement or any obligation hereunder, is interfered with by reason of any circumstances beyond the reasonable control of the parties, including without limitation, fire, explosion, riots, civil unrest, power failures, injunctions, or acts of God, then the party affected shall be excused from such performance on a day-to-day basis to the extent of such interference, provided the party so affected shall use reasonable efforts to remove such causes of no-performance. In the event any governmental tariff or regulation prevents Evercom from providing services, or such tariffs or regulations make continuation of this agreement impractical for economic reasons or otherwise, then Evercom, at its sole discretion, may terminate this Agreement without liability. In the event of a termination of this Agreement for any reason, the Customer agrees to allow Evercom access to the facility in order to remove the Equipment. Evercom agrees to remove the Equipment within thirty days after termination of this Agreement.

8. Authority. Each party to this Agreement warrants and represents that they have the unrestricted right and requisite authority to enter into and execute this Agreement, to bind the respective party, and to authorize the installation and operation of the Equipment.

9. Notices. Any notice or demand under the terms of this Agreement or under any statute made by either party shall be in writing and shall be given or made by mail, postage prepaid, addressed to the respective party as listed on signature page of this agreement. A second copy of any notice to Kendall County shall be included so it can be forwarded to the Kendall County State's Attorney.

10. Miscellaneous.

- A. This Agreement shall be construed under and is enforceable under the laws of the State of Illinois.
- B. No waiver by either party of any event of default under this Agreement shall operate as a waiver of any subsequent default under the terms of this Agreement.
- C. If any provision of this Agreement is held to be invalid or unenforceable, the validity or enforceability of the other provisions shall remain unaffected.
- D. This Agreement shall be binding upon and inure to the benefit of Evercom and the Customer, and their respective successors and assigns.
- E. This Agreement may be executed in counterparts, each of which shall be fully effective as an original, and all of which together shall constitute one and the same instrument. This Agreement constitutes the entire Agreement of the parties. The rights and obligations of the parties shall be determined solely from the terms of this Agreement and any prior or contemporaneous oral agreements are superseded by and merged into this Agreement.
- F. This Agreement cannot be varied or modified orally and can only be varied or modified by a written instrument signed by all parties.
- G. Evercom, at its sole cost and expense shall secure the state, county or federal governmental authority licenses required for the provision of services contemplated in this Agreement.
- H. During the term of this agreement, the Equipment installed in the facility pursuant to this Agreement shall remain the sole and exclusive property of Evercom.

I. If Evercom is the first party to execute this Agreement, then the Customer shall have until 5:00 p.m. (Central Time) 90 days from the date set forth under Evercom's signature below, to execute and deliver this Agreement to Evercom. If the Customer has not executed and delivered this Agreement to Evercom within the 90 day period, then the offer made by Evercom to enter into this Agreement shall terminate and be null and void after such time. Evercom may also terminate the offer made by this Agreement prior to the end of the 90 day period by written notice to the Customer, unless the Customer has previously signed and delivered this Agreement to Evercom.

EXECUTED as of the date and year signed below:

Evercom Systems, Inc.
8201 Tristar Drive
Irving, TX 75063
(800) 947-0899

Kendall County Illinois
1102 Cornell Lane
Yorkville, IL 60560
(630) 553-7500

By: _____

Name: John J. Viola

Title: Vice President-Sales and Marketing

Date: _____

By: _____

Name: Richard A. Randall

Title: Sheriff

Date: 11/10/03

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