

INMATE PAY TELEPHONE AGEEMENT

This Inmate Pay telephone Agreement (the "Agreement") is made as of the 1ST day of OCTOBER 2008, by and between **East Baton Rouge Parish Sheriff's Department, located at P.O. Box 3277, Baton Rouge, Louisiana 70821** ("Customer") and **American Phone Systems (APS) located at 823 West Congress Street Lafayette, Louisiana 70501.**

1. Utilization of Facility and Equipment. The Customer, for and in consideration of the payment of the Commission (as hereinafter defined) and the services to be provided by APS grants APS the exclusive right and license to install and maintain an inmate Telecommunication System governing all inmate calls, including g local and long distance traffic for collect calling and potentially debit calling, and inter-related hardware and software, (collectively "APS Equipment") within the jail and/or work release center 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 APS for complete installation and operation of the Equipment.

APS shall provide a minimum of (62) sixty-two phones at the Prison facility. APS shall provide a minimum to (15) fifteen phones at the work release center detention facility. In the event the population of the work release center detention facility reaches (250) two hundred and fifty inmates, APS shall increase the number phones to a minimum of (20) twenty phones at the work release center detention facility. .

2. Compensation. In consideration of the right to install and operate the Equipment within the Facility. APS agrees to pay the Customer 4.8% of the gross revenue from use of the Equipment through all collect calls, billed by inmates with the Facility (the "Commission"). Gross revenue shall mean the gross billable (actual local and long distance calls billed via local exchange carrier) revenue. The Commission shall be paid to the Customer on a monthly basis, as set forth in Section 3 below.

a. Collect Calls. APS shall pay Customer the applicable Collect Call Commission Percentage of the Gross Revenue earned by APS through the completion of collect calls ("Collect Calls") placed from the Facility.

b. Inmate Prepaid Calling Cards. Upon written request by Customer, APS shall provide inmate prepaid calling cards for resale to inmates by Customer. Customer shall pay APS for the minutes designated on the prepaid cards at the Rates, less the Prepaid Card Discount. If APS has not received Customer's payment for the prepaid calling cards within 90 days after Customer's receipt of the cards, then APS reserves the right to deduct the cost of the cards from the Commissions until paid in full,

c. Debit Account Calls. APS shall pay Customer the applicable Debit Account Commission Percentage of the Gross Revenue earned by APS through the completion of calls placed from the Facility that are paid from designated prepaid APS debit accounts, the records of which are stored in the Equipment ("Debit Account Calls").

d. Coin Pay Phone Calls. APS agrees, as a courtesy to Customer, to (i) provide Customer with four pay phones (the "Coin Pay Phones") in their current locations and (ii) pay Customer the applicable Coin Pay Phone Commission Percentage of the revenue realized by APS through collection of coins in such Coin Pay Phones.

e. Gross Revenue. "Gross Revenue" means all charges (excluding taxes, if any) billed by APS relating to either Collect Calls or Debit Account Calls.

f. Rates. APS shall charge telephone rates (the "Rates") that are allowed by tariff, if applicable. The Rates may be amended from time to time by the parties or in accordance with Section 12(b).

g. Additional Services. APS shall have the right to offer additional services and equipment features to Customer. The terms and conditions (including, without limitation, the cost) for such additional services and equipment features shall be memorialized by a written addendum signed by both parties.

3. Payment and Accounting. APS agrees to pay the Customer on a monthly basis. The commissions shall be paid no later than thirty 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 APS within sixty days of mailing of the Commission payment to Customer by APS. If the Customer wishes the commission to be remitted to an address that is different than the address on the first page of this Contract, please advise in writing. Customers shall have the right to audit call records and charges billed by APS to confirm the calculations of commissions.

4. Maintenance and Repair. During the term of this Agreement, APS 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 APS reasonable access to the Facility in order to service, repair and maintain the Equipment. The Customer shall notify APS of any misuse, destruction, damage or vandalism to the Equipment, as soon as practicable after ascertaining the same. APS, by providing equipment or service from third party vendors, make 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. APS 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 APS 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. APS shall have the obligation to defend any such claim, demand or cause of action at its sole costs and expenses. 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 APS. In no event shall the Customer be liable for any damage or destruction to any item of the Equipment.

6. **Indemnity.** APS SHALL DEFEND, INDEMNIFY AND HOLD CUSTOMER, AND ITS AFFILIATES, AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, AND SUCCESSORS HARMLESS FROM ANY LOSS, COST, EXPENSES, DAMAGE, OR LIABILITY RESULTING FROM ANY THIRD PARTY ACTION BROUGHT OR THREATENED AGAINST CUSTOMER BASED ON ANY (I) NEGLIGENT FAILURE BY APS TO PERFORM A MATERIAL OBLIGATION UNDER THIS AGREEMENT, (II) ALLEGATION THAT THE SERVICES INFRINGE A PATENT, COPYRIGHT, TRADEMARK, OR ANY OTHER PROPRIETARY RIGHTS OF A THIRD PARTY, OR (III) ARISING OUT OF APS'S PROVISION OF PHONE SERVICES OR CHARGES THEREFOR, PROVIDED THAT CUSTOMER PROVIDES APS WITH PROMPT WRITTEN NOTICE OF THE SAME. IN THE EVENT ANY SUCH INFRINGEMENT CLAIM IS MADE OR THREATENED AGAINST CUSTOMER, OR INJUNCTIVE RELIEF IS GRANTED TO A CLAIMANT, APS SHALL (a) OBTAIN THE RIGHT FOR CUSTOMER TO CONTINUE USE OF THE SERVICES; OR (b) SUBSTITUTE OTHER SERVICES OF LIKE CAPABILITY; OR (c) REPLACE OR MODIFY THE SERVICES TO RENDER THEM NON-INFRINGEMENT WHILE RETAINING LIKE CAPABILITY. IF APS IS UNABLE TO PERFORM ANY OF THE ACTIONS IN CLAUSE (a), (b) or (c) ABOVE, THEN CUSTOMER MAY TERMINATE THIS AGREEMENT UPON PRIOR WRITTEN NOTICE TO APS WITHOUT INSURING ANY TERMINATION PENALTIES. INDEMNIFICATION BY APS PURSUANT TO THIS SECTION SHALL BE CUSTOMER'S SOLE REMEDY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO SUCH THIRD PARTY CLAIMS. THE INDEMNITIES HEREIN SHALL SURVIVE THE EXPIRATION OR OTHER TERMINATION OF THIS AGREEMENT.

7. **Term of Agreement.** The obligations of the parties under this Agreement are effective as of the _____, but the term of this Agreement shall commence upon the date of execution (the "Commencement Date:). This Agreement shall remain in force and effect for five years from the Commencement Date, hereafter known as the initial term which shall have an expiration date of (M) 10, (D) 01, (Y) 2012 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 has an option to be exercised by the Sheriff to renew for four (4) one (1) year terms. 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 it customary for operations conducted at the Facility, the expiration of the terms of this Agreement shall be extended for a period of time equal to the period of such extraordinary interruption or stoppage of business operations.

8. **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, wither 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 performances 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 prevent APS from providing service or such tariffs or regulations make continuation of this agreement impractical for economic reasons or otherwise, then APS, at its sole discretion, may terminate this Agreement without liability. In the event of termination of this Agreement for any reason, the Customer agrees to allow APS access to the facility in order to remove the Equipment. APS agrees to remove the Equipment within thirty days after termination of this Agreement.

9. **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.

10. **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.

11. **Miscellaneous.**

A. This Agreement shall be construed under and is enforceable under the laws of the State of Louisiana.

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 under 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 insure to the benefit of APS 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. APS, 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 terms of this agreement, the Equipment installed in the facility pursuant to this Agreement shall remain the sole and exclusive property of APS.

I. APS agreed to comply with any public records request.

J. The terms and conditions set forth in the bid submitted by APS on May 20, 2008 and accepted by the East Baton Rouge Parish Sheriff's Department are made part of this Agreement as if set forth herein *in extenso*.

EXECUTED as of the date and year signed below:

By: Stephen J. Hymel

Name: Stephen J. Hymel

Title: Chief Civil Deputy

Date: 9 - 30 - 08

By: T.L. Ventroy

Name: T.L. VENTROY

Title: PRESIDENT

Date: SEPTEMBER 29, 2008

FIRST AMENDMENT TO THE INMATE TELEPHONE AGREEMENT

This Amendment to the Inmate Pay Telephone Agreement is entered into this _____ day of _____, 2009, by and between the East Baton Rouge Parish Sheriff's Department, located at P.O. Box 3277, Baton Rouge, Louisiana 70821 ("Customer"), and American Phone Systems (APS) located at 823 West Congress Street, Lafayette, Louisiana 70501.

Subsequent to the signing of the original "Inmate Pay Telephone Agreement", the parties discovered a typographical error in the calculation of compensation set forth in Section 2 of the agreement. Therefore, the parties wish to amend this agreement to accurately reflect the parties' initial intent with respect to the calculation of compensation.

Whereas, Section 2 of the Inmate Pay Telephone Agreement is amended in part to read as follows:

2. Compensation. In consideration of the right to install and operate the Equipment within the Facility, APS agrees to pay the Customer 48% of the gross revenue from use of the Equipment through all collect calls, billed by inmates with the Facility (the "Commission"). Gross revenue shall mean the gross billable (actual local and long distance calls billed via local exchange carrier) revenue. The Commission shall be paid to the Customer on a monthly basis, as set forth in Section 3 below.

All remaining terms and conditions as set forth in the original Agreement remain the same.

ACCEPTED AND APPROVED as of the date signed below by the undersigned who affirmatively represent that they have full actual and apparent authority to execute this Agreement on behalf of the parties hereto.

EAST BATON ROUGE PARISH SHERIFF'S DEPARTMENT

By: Stephen J. Hymel

Title: Chief Court Deputy

Date: 10-28-2009

AMERICAN PHONE SYSTEMS

By: J. Stenti

Title: President

Date: 10-15-09