



INMATE TELEPHONE SERVICE AGREEMENT

This Agreement is made and entered into by and between FSH Communications, LLC ("FSH"), a Delaware corporation, and **Stevens County Jail** ("Space Provider") with a principal place of business in Colville, Washington, for the provision of pay telephones and/or inmate telephone service (Telephones) and ancillary inmate communications (equipment) as defined herein ("Agreement"). For purposes of clarity, both pay telephones and inmate telephones will be referred to as "Telephones" in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants made herein, the parties agree as follows:

1. **TERM.** This Agreement is effective on the latest signature date ("Effective Date"), and shall continue in effect for a period of five (5) years ("Initial Term") from the Effective Date. Upon completion of the Initial Term, this Agreement shall be automatically renewed for successive periods of one (1) year each under the same terms and conditions, unless terminated by either party upon ninety (90) days advance written notice prior to the end of the Initial term or the current renewal period.

2. SCOPE OF AGREEMENT

2.1. In consideration of compensation provided herein, Space Provider grants to FSH exclusive right to install and maintain Telephones within its building or on its private property ("Location") during the term of this Agreement. FSH reserves the right to establish rates for telephone services. This Agreement applies to all Telephone(s) currently installed ("existing") and to all future installations ("new").

2.2. This Agreement includes all other premises, whether now existing (if a competing provider has a contract and equipment at such premises, this clause applies at the earliest termination opportunity) or subsequently acquired, under the control of Space Provider within FSH's service areas. Space Provider will advise FSH in writing, of newly opened, acquired, or available premises, promptly, so FSH can evaluate installation of its Telephones at these premises.

2.3 In consideration of the compensation paid to Space Provider under this Agreement, Space Provider expressly waives carrier selection rights, where applicable, and FSH expressly reserves the right to select and/or contract for the local, intraLATA and interLATA carrier selections for the telephones subject to this Agreement and intended for placement at Space Provider locations.

3. RESPONSIBILITY OF FSH

FSH agrees to:

3.1. Install Telephones at locations mutually agreed upon by both parties.

3.2. Jointly determine with Space Provider the appropriate number of Telephones to be installed at each location.

3.3. Service and repair Telephones provided by FSH, at FSH's expense, except as otherwise agreed upon herein.

3.4. Comply with the Americans with Disabilities Act (ADA) as it relates to the FSH -provided equipment.

4. RESPONSIBILITY OF SPACE PROVIDER

Space Provider agrees to:

4.1. Provide adequate space for Telephones and easy accessibility for use during the normal operating hours of Space Provider. In the event Space Provider is not the owner of the premises, Space Provider shall, where necessary, obtain permission from the building owner or owner's agent for the placement of FSH's Telephones, and shall be responsible for any fees for use of required riser cable and electric power.

4.2. Maintain the area around the Telephones and ensure safe and ready access to the users of the Telephones and to FSH.

4.3. Allow FSH access to perform maintenance during the established hours of accessibility jointly agreed to by Space Provider and FSH, except when access must be denied to ensure the safety of FSH service personnel and/or to maintain institutional control.

4.4. Space Provider agrees to allow FSH access to and use of house cable and inside wire at no cost, in order to install and provide telephone service. Any new house cable or inside wire required during the contract term will be at the sole expense of the Space Provider, unless otherwise negotiated with FSH. Light fiber is not defined as house cable or inside wire. Any expense incurred as a result of the expected use of light fiber will be at the sole expense of the Space Provider unless otherwise negotiated with FSH.

4.5. Any relocation, expansion, addition, or deletion of Telephones and equipment, for reasons other than safety, resulting in extraordinary expense and expected to be paid for by FSH, must be agreed to by FSH in advance of the cost being incurred or alternatively, the cost be paid by Space Provider.

4.6. Exercise reasonable care to prevent the loss through theft and any damage to the Telephones from any source.

4.7. Space Provider may, at its option, purchase and provide enclosures at their own expense for Telephones. In the event Space Provider elects to provide enclosures, Space Provider shall be responsible for installation and maintenance of said enclosures.

4.8. Space Provider warrants that it has the authority to enter into this Inmate Telephone Service Agreement with FSH. Space Provider further warrants that the Telephones as mentioned in Schedule A, attached hereto and incorporated herein by this reference, are on property owned by the Space Provider or if Space Provider is not the owner of the premises, Space Provider has obtained permission from the building owner or owner's agent to enter into this Agreement.

5. OWNERSHIP. FSH is and shall remain the owner of the Telephones provided by FSH whether or not physically attached to real estate.

6. FURTHER LOCATIONS AND TELEPHONES. The parties may add location(s) and Telephone(s) to this Agreement, but additions will not be made without the express agreement of the parties. Additions may be evidenced by a written memorandum between the parties, but FSH's business office records, unless clearly erroneous, will be binding on the parties. Additions will not change the initial or any renewal terms or the expiration date of this Agreement.

7. COMMISSION. FSH agrees to pay Space Provider a commission in accordance with Schedule B, attached hereto and incorporated herein by this reference. Payment shall be in the form of commission checks made payable to Space Provider.

8. **REMOVAL OF TELEPHONES.** FSH reserves the right, at its sole discretion, to remove any or all Telephones, in the event that placement at Space Provider location(s) is not economically viable. FSH shall provide Space Provider thirty (30) days written notice of its election to remove any or all Telephones. If FSH removes Telephones under this paragraph, Space Provider shall not be liable for termination charges for the Telephones removed. Space Provider shall be entitled to receive any commissions earned before the FSH removal of such Telephones.

9. **TERMINATION LIABILITY.** If Telephones are removed by Space Provider, during the term of this Agreement, Space Provider shall be liable to FSH for a termination charge as set forth in Schedule C, attached hereto and incorporated herein by this reference. This provision shall not apply to the temporary removal of Telephones by Space Provider or upon Space Provider's request, for space remodeling, construction work, or for safety reasons.

10. **LIMITATION OF LIABILITY.** In the event of a service interruption caused by FSH, FSH liability shall be limited to the use of reasonable diligence under the circumstances, for restoration of service. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOST STATION REVENUES, LOSS OF PROFITS OR OTHER COMMERCIAL OR ECONOMIC LOSS ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION NEGLIGENT PERFORMANCE OR FAILURE TO PERFORM, EXCEPT AS SET FORTH UNDER THE TERMINATION LIABILITY PROVISION HEREIN.

11. **EXCUSED PERFORMANCE.** Space Provider shall not be subject to Termination Liability if the cause of removal is directly related to the cessation of Space Provider's business operations. Neither party shall be held liable for any delay or failure in performance of any part of this Agreement caused by circumstances beyond the reasonable control of the party affected, including, but not limited to, acts of the elements or natural disasters, strikes, power failures, civil or military emergencies or acts of legislative, judicial or other civil authorities.

12. **DEFAULT.** If either party fails to perform its obligations under this Agreement, failure shall constitute default and, in such event, written notice shall be given to provide an opportunity to remedy such default. Should the defaulting party fail to remedy such default within 10 days from date of such notice, the non-defaulting party shall have the right, in addition to all other rights and remedies available at law or in equity, to terminate this Agreement in whole or in part.

13. **ADVERTISING/PUBLICITY.** Space Provider may not make any disclosure to any other person or any public announcement regarding this Agreement or any relation between FSH (and/or any of its affiliate's) names, marks, codes, drawings, or specifications without FSH's prior written consent, unless required by law.

FSH shall have the right to terminate this Agreement and any other agreements between the parties if Space Provider violates this provision.

14. **INSURANCE.** At all times during the term of this Agreement, FSH and its subcontractors shall maintain in effect the following types and amounts of Insurance:

- i. Commercial General Liability Insurance with Bodily Injury Liability and Property Damage Liability Combined Single Limit- \$5,000,000 per incident and \$1,000,000 per person.
- ii. Commercial Automobile Liability as follows: Combined Bodily Injury and Property Damage Single Limit - \$5,000,000 combined single limit for each incident and \$1,000,000 per person.
- iii. Workers' Compensation – FSH shall comply with all Workers' Compensation

requirements in the states in which FSH will provide services to Space Provider under this Agreement.

15. **INDEMNIFICATION.** It is agreed by and between the parties that it is the responsibility of Space Provider to maintain the area around the Telephones and to maintain enclosures if provided by Space Provider. Space Provider specifically agrees to defend and indemnify FSH from any claims that may result from Space Providers failure to properly maintain the area or enclosure except to the extent that such failure is due to the sole negligence or willful acts of FSH's employees or agents. FSH agrees to defend and indemnify Space Provider from any claims that result from FSH 's failure to properly maintain or service Telephones, except to the extent that such claim results from the sole negligence or willful acts of Space Provider's employees or agents.

16. **NOTICES.** Any notices or other communications to be given under this Agreement shall be sent to the following persons:

FOR SPACE PROVIDER:

Stevens County Jail
215 S. Oak Street
Colville, WA 99114-2862

FOR FSH:

Attn: Account Executive
Joanna Sissons
1600 7th Avenue
Seattle, WA 98191

Copy to: FSH Legal Department

Attn: Michael L. Johnson, Esq.
200 S Michigan Ave, Suite 1210
Chicago, IL 60604

17. **REGULATORY.** The parties acknowledge that underlying telecommunications services may be provided by regulated telecommunications providers and, where applicable, provider tariffs, catalogs and price lists may apply.

18. **LAWFULNESS OF AGREEMENT.** The parties acknowledge that this Agreement is subject to applicable federal, state, and local laws, rules, regulations, court orders, and governmental agency orders governing the provision of inmate telecommunications services.

19. **NONWAIVER.** The failure of either party to enforce strict performance of any provision of this Agreement shall not be construed as a waiver of its right to assert or rely upon such provision or any other provision of this Agreement.

20. **GOVERNING LAW.** This Agreement shall be interpreted, construed and enforced in all aspects in accordance with the laws of the State in which the inmate telephone and public telephone service is provided.

21. **SUCCESSORS AND ASSIGNS.** This Agreement shall be fully binding upon, inure to the benefit of and be enforceable by each party, their successors and assigns. No assignment of any right or interest in this Agreement (whether by contract, operation of law or otherwise) shall release or relieve either party of any of its obligations or liabilities under this Agreement.

22. **ASSIGNMENT.** Neither party shall assign its rights nor delegate its duties under this Agreement without the prior written consent of the other party; except, either party may assign this Agreement to a parent, subsidiary or affiliated company by providing thirty (30) days written notice to the other party.

23. **AMENDMENTS AND MODIFICATIONS.** Amendments and modifications to this Agreement, except for additions or deletions of Telephones as described above, must be in writing and signed by an authorized representative of each Party.

24. **SEVERABILITY.** In the event that a court, governmental agency, or regulatory body with proper jurisdiction determines that this Agreement or a provision of this Agreement is unlawful, this Agreement, or that provision of the Agreement to the extent it is unlawful, shall terminate. If a provision of this Agreement is terminated but the parties can legally, commercially and practicably continue without the terminated provision, the remainder of this Agreement shall continue in effect.

25. **ENTIRE AGREEMENT.** This Agreement, including all schedules, amendments and exhibits, constitutes the entire Agreement between the parties and supersedes all prior agreements and oral or written representations with respect to the subject matter hereto.

Space Provider: Stevens County Jail	FSH Communications, LLC
Signature:	Signature:
Name Printed/Typed	Name Printed/Typed Steve Loggans
Title	Title Vice President / General Manager
Date	Date
Federal Tax ID Number 91-6001372	

**SCHEDULE A
INMATE TELEPHONE LOCATIONS
FOR STEVENS COUNTY JAIL**

Telephone Number	Address	City	St	Install Date
5096848391	215 S OAK ST	COLVILLE	WA	7/1/1999
5096848392	215 S OAK ST	COLVILLE	WA	7/1/1999
5096848383	215 S OAK ST	COLVILLE	WA	7/1/1999
5096848390	215 S OAK ST	COLVILLE	WA	7/1/1999
5096848382	215 S OAK ST	COLVILLE	WA	7/1/1999

**SCHEDULE B
COMMISSION SCHEDULE
FOR **STEVENS COUNTY JAIL****

FSH agrees to pay Space Provider compensation for Inmate Telephone Service based upon twenty-five (25%) percent of billed local, intraLATA and interLATA collect call revenue as billed by FSH's underlying telecommunications providers, exclusive of calls where no billing and collection agreements exist.

Commission Checks are to be mailed to the following address:

Stevens County Jail Inmate Fund

Post Office Box 186

Colville, WA 99114-2862

**SCHEDULE C
TERMINATION LIABILITY
FOR**

TELEPHONE EQUIPMENT INVESTMENT: Termination liability applies to **new Telephone installations only**. This charge **does not apply to installed Telephones** that are temporarily removed for purposes of construction, for safety reasons, or due to closure of a facility. In the event of removal of Telephones for reasons other than for the reasons stated above, the termination charge shall be \$318.45 (three hundred and eighteen dollars and forty-five cents) for each new inmate telephone, reduced by \$____ for each month the inmate telephone is in service after the installation date. Termination charges may also apply for the unamortized associated expenses of the ancillary equipment installed on premises that are used to support the functions of the Telephones.

Net Unamortized Capital:	\$173.69 / Set
Installation Cost:	\$144.76 / Set
Removal Cost:	\$ _____ N/A / Set
	\$318.45 / Set