

**Voice Application Development and Hosting Agreement**

This Voice Application Hosting Agreement ("Agreement") is entered into on February \_\_\_, 2012 between Telerus, Inc., 621 17<sup>th</sup> Street, Suite 2131, Denver, CO 80293 [www.telerus.com](http://www.telerus.com), [info@telerus.com](mailto:info@telerus.com), hereinafter referred to as "Host" and Jackson County Department of Corrections, 1300 Cherry Street, Kansas City, MO 64106 hereinafter referred to as "Client." The Host and the Client shall be collectively referred to as the Parties. Under this Agreement, the Host will provide Voice Application Development and Hosting services to Client. The parties agree as follows:

**1. Acceptance**

By accepting this Agreement and using Host's Voice Application Hosting Services ("Services"), Client agrees to be bound by all the terms and conditions of this Agreement.

**2. Provision of Services**

Host agrees to provide Client with Voice Application Development and Hosting Services, consisting of configuration of Automated Information Services (AIS™), the Host's Interactive Voice Response (IVR) Platform, for the Jackson County Detention Facility with the features, specifications, and assumptions listed below. Note: not all features are required, nor expected.

- Consultation with Client on the call forwarding, porting or auto attendant integration necessary to direct existing facility phone number phone calls to the Telerus data center.
- Consultation with Client on JMS integration through flat-file FTP exports in fifteen minute intervals. After consulting with Telerus on field requirements, the County will push Pipe, Comma, or Tab Delimited formatted text files.
- Transfers of callers requiring personal assistance to facility staff members via a TBD single DID (local number).
- Speech Recognition Interface.
- Touchtone Interface.
- Text-to-Speech Interface.
- Spanish Interface.
- Inmate Name Recognition including Date of Birth Fallback and Alias Matching.
- Charges including Statue and/or JMS Entry Literal Description.
- Bond Amounts and Types including Support for Multiple Charges.
- Court Dates, Times, and Locations.

- Projected Release Dates.
- Inmate Specific Visitation Times and/or Visits Remaining for the Week.
- General Facility Information including facility location, directions, hours, mailing policies, visitation policies, money deposit policies and medication/prescriptions polices.
- Web Portal Access with capability to run Call Summary Reports on an ad hoc basis.
- Hosting from Class III data center located in Denver, CO with multiple Internet redundancies, multiple power redundancies, climate control, controlled access, raised floors, and diesel backup generators.

### **3. Agreement Term**

The initial term of this Agreement shall commence on the date of the first production call following execution of this Agreement and shall continue through the remainder of that calendar month in which this Agreement was executed (the "Initial Term"). After the initial term, this Agreement shall be automatically renewed for successive monthly periods until terminated by one of the parties as provided in this agreement.

### **4. Termination for Convenience**

Client may terminate this Agreement at any time, for any reason, with written notice no less than 30 days prior to the service termination. In such event, Host shall refund Client on a pro-rata basis for the unused portion of the prepaid service.

### **5. Payment Terms**

(a) Client agrees to cause Host to be paid an amount of \$2,000 monthly for the Host's services. Host reserves the right to change or modify its charges for Client's plan from time to time on 30 days notice written or e-mailed to Client. Client's continued use of Host's services after receipt of such a notice shall constitute Client's acceptance of and Agreement to be bound by the Host's modified charges for its services. Additional charges for add-on services not included in Client's plan will be made as mutually agreed upon.

(b) Upon execution of this agreement, Client agrees to cause Host to be paid the first and last month's fees for a total of \$4,000 within 30 days.

(b) Service charges are payable in advance on a monthly basis. Host will invoice Client at the beginning of each payment period. Host will submit all invoices to Client by US Postal Mail. Payment is due within 30 days of receipt of invoice. Payments must be

made by check. Interest in the amount of one percent per month will be added to any outstanding invoices remaining unpaid for more than 60 days.

#### **6. Liability; No Warranty; Limitation of Damages**

(a) Client expressly agrees that use of Services provided by Host is at Client's sole risk.

(b) Host guarantees 99.9% percent uptime for the Voice Service. If uptime falls below 99.9% percent during any given month, Host will credit Client on pro-rated basis for all downtime below 99.9%. Any such credit shall be applied to future invoices. This credit shall be Client's sole and exclusive compensation for any downtime or other unavailability of Host's services under this Agreement. Host shall have no liability of any kind for any damages or loss arising as a consequence of such downtime or unavailability.

(c) Host, its agents, affiliates, licensors or the like, do not represent or warrant, expressly or impliedly, that their services will not be interrupted or error free; nor do they make any warranty as to the results that may be obtained from the use of their services or as to the accuracy, reliability, or content of any information service or merchandise contained in or provided through their services, unless otherwise expressly stated in this Agreement.

(d) Host, its officers, agents, or anyone else involved in providing services shall not be liable for any direct, indirect, incidental, special, or consequential damages that result from the use or inability to use services; or for any damages that result from mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation, or transmission, or any failure of performance, whether or not limited to acts of god, communication failure, theft, destruction, or unauthorized access to Host's records, programs, or services.

(e) Host will exercise no control over the content of the information passing through Host's network except those controls expressly provided herein.

(f) Host makes no warranties or representations of any kind, express or implied, for the services it is providing. Host also disclaims any warranty of merchantability or fitness for a particular purpose and will not be responsible for any damages that may be suffered by Client, including loss of data resulting from delays or non-deliveries.

#### **7. Patents, Copyrights, Trademarks, and Other Intellectual and Proprietary Rights**

Except for rights expressly granted herein, this Agreement does not transfer any intellectual or other property or proprietary right to Client. Client agrees that all right, title, and interest in any product or service provided to Client belongs to Host. These products and services are only for Client's use in connection with Services provided to Client as outlined in this Agreement.

## **8. Hardware, Equipment, and Software**

Client is responsible for and must provide all phone systems, phone services, computers, software, hardware, and other services necessary to FTP data files and route public phone calls to Host servers.

## **9. Indemnification**

Client agrees to defend, indemnify, and hold Host harmless from any and all demands, liabilities, losses, costs, and claims, including reasonable attorneys' fees, asserted against Host, its agents, servants, officers, and employees, that may arise or result from any Service provided or performed or agreed to be performed or any product sold by Client, Client's agents, employees, or assigns. Client further agrees to defend, indemnify, and hold harmless Host against liabilities arising out of:

(a) Any liability to Host arising by virtue of any use of Host's services by Client for any unlawful purpose, or in violation of any valid federal, state, or local law or regulation governing use of telecommunications;

(b) Any injury to person or property caused by any products sold or otherwise distributed in connection with Services provided to Client;

(c) Any material supplied by Client infringing or allegedly infringing on the property or proprietary rights of a third party;

(d) Copyright or trademark infringement by Client, or violation by Client of intellectual property rights of any other party; and

(e) Any defective product which Client sold or distributed by means of Services. Client agrees that the liability limit of Host shall in no event be greater than the aggregate dollar amount which Client paid during the terms of this Agreement, including any reasonable attorneys' fees and court costs.

## **10. Attorneys' Fees**

If any legal action is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. This provision shall be construed as applicable to the entire Agreement.

## **11. Notice**

Client agrees to keep Host informed of all current contact information for Client's account. Changes in Client's account information may be reported to Host by phone call to 303-996-0533 or e-mail at [info@telerus.com](mailto:info@telerus.com).

## **12. Governing Law**

This Agreement has been entered into in the State of Colorado, and its validity, construction, interpretation and legal effect shall be governed by the laws of that state applicable to contracts entered into and performed entirely within that state.

**13. Severability**

In case any one or more of the provisions of this Agreement be held for any reason to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if the invalid provision(s) had never been contained in this Agreement, provided that those provision(s) shall be curtailed, limited, or eliminated only to the extent necessary to remove the invalidity, illegality, or unenforceability.

**14. Waiver**

No waiver by Host of any breach by Client of any provision of this Agreement shall be deemed a waiver of any preceding or succeeding breach of this Agreement. No waiver shall be effective unless it is in writing, and then only to the extent expressly set forth in such writing.

**15. Entire Agreement**

This Agreement shall constitute the entire agreement between Client and Host, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

HOST:

\_\_\_\_\_  
Telerus, Inc.  
By Ted Radey, its CEO

\_\_\_\_\_  
Date

CLIENT:

\_\_\_\_\_  
Jackson County Department of Corrections  
By

\_\_\_\_\_  
Date

JACKSON COUNTY, MISSOURI  
By: \_\_\_\_\_  
Michael D. Sanders, County Executive

ATTEST:  
By: \_\_\_\_\_  
Mary Jo Spino, Clerk County Legislature

APPROVED AS TO FORM:  
By: \_\_\_\_\_  
W. Stephen Nixon, County Counselor