

EXHIBIT 21

November 21, 1991

VIA AIR COURIER

Ms. Dana Motyl
AT&T
Room 6155G1
295 N. Maple Ave.
Basking Ridge, NJ 07920

Re: Agreement

Dear Dana:

Enclosed please find the original and a copy of the above-referenced document both of which have been executed as originals by Tele-Matic.

Please return one of the fully executed copies. Thanks for your assistance.

Very truly yours,



Thomas J. Huzjak

TJH/cah
Enclosures

~~VIA AIR COURIER~~

REDACTED

EXHIBIT <u>25</u>
WIT: _____
DATE: _____
RACHEL CHAVEZ

Confidential Per Protective Order in
WUTC Docket No. UT-042022"

A000063

AGREEMENT

This agreement (the "Agreement"), effective as of the 1st day of November, 1991 (the "Effective Date"), is made and entered into by and between TELE-MATIC CORPORATION, a Colorado corporation with a principal place of business located at 6675 S. Kenton Street, Englewood, Colorado 80111 ("TMC") and AMERICAN TELEPHONE AND TELEGRAPH COMPANY, a New York corporation with a place of business at 295 North Maple Avenue, Basking Ridge, New Jersey 07920 ("AT&T").

W I T N E S S E T H:

WHEREAS, TMC desires to provide services to AT&T in support of AT&T's provisioning of telecommunications services to inmates ("Inmate Calling") in various correctional institutions pursuant to agreements with such correctional institutions ("Clients"); and

WHEREAS, AT&T desires to use the services of TMC to support AT&T's provision of Inmate Calling to certain Clients where such TMC services are appropriate and where the parties have agreed to the provision of such services; and

WHEREAS, the parties desire to set forth a framework for the provision of such services by TMC and the payment therefor by AT&T;

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, the parties hereto agree as follows:

I. SCOPE OF THE AGREEMENT

1.1 The parties acknowledge that the type of services to be provided by TMC in connection with any Client may vary depending upon a variety of factors, including, but not limited to, such matters as state telecommunications and utility statutes and regulations, as well as correctional department policies, goals and procedures. Where the parties have agreed that TMC shall provide services to a specific Client, the parties shall set forth the details of the services to be provided by TMC in a Schedule to be executed by the parties and attached hereto. There shall be a separate Schedule for each Client, and each Schedule shall reflect the Transaction Fees to be paid for such services, which fees may vary from Client to Client.

1.2 The body of this Agreement shall set forth the general terms and conditions governing TMC's provision of services to AT&T, while the Schedules that are attached to this Agreement and may be executed by the parties in the future will set forth the details of TMC's provision of

services in connection with a specific Client. In the event of any inconsistency between the terms of this Agreement and the terms of any Schedule, the terms of the Schedule shall govern.

II. TMC RESPONSIBILITIES

2.1 TMC will be responsible, solely, for the provisioning of the following functions and operations, all of which are collectively referred to as the "System":

REDACTED

A. Hardware. TMC will be responsible for providing all hardware necessary to implement the System, including, but not limited to, inmate telephones, host processors and all associated wiring. Such telephones and host processors shall meet the specifications set forth in Attachment A to this Agreement.

B. Automated Operator. TMC will provide complete automated operator services for Inmate Calling. Automated operator services includes the provision of all functions by which the TMC System interfaces with the inmate during the call set-up processes, establishes the call through AT&T's network, detects an answer of the call by the called party, announces that the call is originating from the specific Client correctional facility and is being provided by AT&T to the called party, identifies the inmate placing the call through a pre-recorded message (IPIN-based systems only; see Section 2.1.C, below), detects the positive acceptance of the call by the called party, and terminates the call following detection of the "hang-up" condition by the called or calling party.

C. IPIN System. TMC will provide Inmate Personal Identification Numbers ("IPIN") which shall be assigned to each inmate and must be used by the inmate to gain access to the System and the network. TMC will be responsible for coordinating the establishment of the IPINs with the specific Client, building the IPIN database and updating the database during the period of installation, and ongoing IPIN administration. A recording of the inmate's statement of his/her name will be made automatically by the System when the inmate places the first call using his/her IPIN. This recorded statement will be stored in the System, associated with the IPIN, and transmitted down-line during the call set-up process to identify the inmate to the called party.

D. Call Restrictions. TMC will provide full call restriction capabilities on a System-wide basis. In IPIN-based installations, call restrictions can be further refined on a per-number, per-inmate, day-of-week, or time-of-day basis.

E. Three-Way Call Detection. TMC's System will provide the ability to detect an attempt by an inmate's called party to activate three-way calling or conference calling. Once this activity is detected, TMC's System will disconnect the call and record the activity in the System for subsequent reporting. On an exception basis, TMC will allow three-way calling to be completed via specific called numbers.

F. Recording and Monitoring System Interface. TMC's System will be capable of interfacing with the recording and monitoring systems of other equipment providers. In IPIN-based systems, the System will interact with the IPIN database. This interface will permit the selective activation or denial of the recording and monitoring interface depending upon the privileged/non-privileged status of the telephone number dialed.

G. Message Billing Services. TMC will collect and record the information pertaining to inmate calls processed by TMC and handed off to AT&T for completion ("Call Records"). The Call Records will be collected and stored in redundant media on the Client premises until electronically transferred ("down-loaded") to TMC's data center. Call Records will be down-loaded no less frequently than every five (5) days. The down-loaded Call Records will be arranged in an "AMA" format pursuant to specifications provided by AT&T, which specifications may be modified by AT&T from time to time. The Call Records, as arranged, will be stored on magnetic tape and delivered to AT&T within seventy-two (72) hours of the date on which they were down-loaded.

TMC represents and warrants that the Call Records that will be provided to AT&T for the billing of inmate calls will accurately reflect the information concerning the inmate call that was completed by AT&T over its network.

H. System/Database Management. TMC, through its employees or factory-certified agents, will manage the System during the term of this Agreement or the term specified in any Schedule hereto. The management of the System includes all reasonable and necessary actions needed to install, maintain and operate the System. Examples of such management include, but are not limited to, installation and maintenance of the inmate telephones and the host processors, administration of the IPIN system, modification of call permission/restriction lists, Client investigation assistance, and normal repair and maintenance of the TMC equipment. Any and all decisions pertaining to the deployment of TMC employees or agents will remain within the sole discretion of TMC, provided, however, that such discretion shall not relieve TMC of its obligations hereunder.

REDACTED

I. Reports. TMC will provide reports on Inmate Calling as may be specified by specific Clients.

2.2 TMC and AT&T may also agree to TMC's provision of consulting services to AT&T in connection with the evaluation of and the preparation of responses to potential Client requests for proposals. Such agreement for such services shall be set forth in a Schedule to this Agreement, which shall also set forth the manner in which TMC will be compensated.

III. AT&T RESPONSIBILITIES

3.1 In consideration of the services provided by TMC under this Agreement, AT&T will pay TMC "Transaction Fees". The Transaction Fees associated with TMC's services in connection with a particular Client shall be set forth in the Schedule for that Client which shall be attached to this Agreement. Transaction Fees will be assessed, and AT&T will become liable for the payment of same, for all inmate calls processed by TMC, transmitted over AT&T's network, and completed to the inmate's called party. Busy signals and "no answer" conditions will not generate a Transaction Fee. Completed calls, however, will cause a Transaction Fee to be assessed and become due and payable, regardless of whether the called party accepts the call.

3.2 AT&T may elect to pay Transaction Fees as incurred or in advance, which election shall be set forth in the Schedule for each Client. The manner in which AT&T will pay such Transaction Fees under each election is as follows:

A. Payment as Incurred. If AT&T elects to pay the Transaction Fees as incurred, AT&T will pay the Transaction Fees billed by TMC within thirty (30) days of the date on which TMC invoices AT&T for such fees. Such invoices shall be submitted by TMC no more frequently than the frequency with which TMC prepares and submits Call Record billing tapes to AT&T.

B. Prepayment. If AT&T elects to prepay Transaction Fees, the advance payment will be calculated by determining the estimated number of inmate calls per month for the specific Client installation, multiplying that number by the applicable Transaction Fee, and multiplying the result by the number of months for which the advance payment is applicable. In consideration for this advance payment, TMC will extend to AT&T, and AT&T will be entitled to, a discount in the amount of .8333 percent per month for the number of months (maximum 12 months) for which payment is made in advance. By way of example, if AT&T elected to pay on January 1, 1992, the estimated Transaction Fees that would be due for a specific Client installation during the calendar year 1992 and such Transaction Fees totalled \$120,000 for the year, AT&T would

be entitled to a discount as follows: $.8333 \times 12 \text{ months} = 10\% \times \$120,000 = \text{discount of } \$12,000$. At a point halfway through the period for which prepayment has been made, the parties shall meet to determine the amount by which the estimated Transaction Fees that would be due differ from those actually incurred and adjust the amount of the prepayment if necessary. At the end of the period for which prepayment has been made, the parties shall true-up the estimated Transaction Fees against those that actually were incurred and any amounts dues AT&T or TMC as a result will be paid within thirty (30) days of the results of the true-up.

3.3 TMC will retain records of Inmate Calling in sufficient detail to substantiate the amount of Transaction Fees for a period of five (5) years after the Inmate Calling in question, and AT&T shall have the right to audit such records upon reasonable notice to TMC.

IV. OWNERSHIP OF EQUIPMENT AND TECHNOLOGY

4.1 Except as may be otherwise agreed by the parties, all right, title and interest in TMC equipment, including, but not limited to, the hardware and software and all necessary and related accessories, parts and wiring supplied by TMC (the "Equipment") is owned by and will remain the sole and exclusive property of TMC. Absent further agreement, the payment or prepayment of Transaction Fees by AT&T does not create a lien or any kind of property interest whatsoever by AT&T in the Equipment. Notwithstanding anything to the contrary contained herein, TMC shall enter into an escrow arrangement whereby the specifications for the the inmate telephones, the specifications for the host processors, and the source code for the application software used in the System are maintained in escrow to be provided to AT&T if, for any reason, TMC can no longer fulfill its responsibilities under this Agreement REDACTI

V. PUBLICITY AND PROMOTION

5.1 TMC specifically agrees that it may not refer to or use the name, trademark or service mark, or logo of AT&T at all except as specifically permitted by this Agreement or upon the prior written authorization of AT&T.

VI. CONFIDENTIALITY

6.1 Each party hereby agrees not to disclose to any third party, or make use of for its own benefit or the benefit of others (directly or indirectly), except in the performance of its obligations hereunder, any confidential information obtained or received from the other party, including, but not limited to, this Agreement, customer lists or information, competitive advantages and disadvantages, financial results, technological developments, operational

procedures, business methods and operations, quality assurance practices, and any other information and material which the disclosing party considers confidential and/or proprietary ("Confidential Information"). Notwithstanding anything to the contrary herein, each party may disclose the existence of this Agreement, the general services provided by TMC hereunder and the total expected compensation hereunder without restriction, and may disclose the terms of this Agreement to its attorneys, accountants, auditors and shareholders, provided that such persons agree to keep such information confidential.

6.2 All Confidential Information furnished to the other party is the property of the furnishing party and, at the request of that party, the receiving party shall return to the furnishing party all Confidential Information in its possession and all copies thereof in whatever form or media.

6.3 Each party acknowledges and agrees that information shall not be considered confidential to the extent, but only to the extent, that such information: (a) is already known to the receiving party at the time it is obtained from the other party; (b) is or becomes publicly known or available through no wrongful act of the receiving party; or (c) is rightfully received from a third party without restriction and without breach of this Agreement.

6.4 The terms of this Section VI shall survive termination of this Agreement.

VII. COMPLIANCE WITH LAWS

7.1 Each party agrees to perform its respective obligations under this Agreement in accordance with all applicable local, state, federal and foreign laws, rules and regulations.

VIII. INDEMNIFICATION

8.1 To the extent not prohibited by law, each party shall indemnify and hold harmless the other party from and against any loss, claim, action, injury, liability, or expense (including reasonable attorneys' fees) incurred by such other party in connection with or arising out of the failure to perform or the late or negligent performance by the indemnifying party or its employees, agents, or contractors of any obligation of such party under this Agreement. Neither party shall be liable to the other for any consequential or punitive damages.

REDACT!

8.2 The terms of this Section VIII shall survive termination of this Agreement.

IX. INSURANCE

9.1 TMC shall provide to AT&T within thirty (30) days of the effective date of this Agreement evidence satisfactory to AT&T that TMC has sufficient insurance coverage to satisfy claims that may arise as a result of TMC's provision of services hereunder.

X. TERM

REDACTED

10.1 This Agreement shall commence upon the Effective Date and shall remain in effect for a period of three (3) years or so long as there is a valid Schedule in effect, whichever is longer, unless terminated earlier pursuant to Section 10.2, 10.3, or 14.2 below.

10.2 If either party defaults in the performance of or breaches any of its material obligations hereunder and such default continues for a period of thirty (30) days after written notice by the non-defaulting party to the defaulting party, the non-defaulting party may terminate this Agreement immediately without liability and be entitled to pursue all available legal and equitable remedies for such default.

10.3 If either party ceases its operations, or becomes insolvent, or files, or has filed against it bankruptcy, reorganization or similar proceedings, then the other party may, at its discretion, immediately terminate this Agreement. Each party agrees to notify the other immediately if any such events should occur.

XI. ASSIGNMENT; NO THIRD PARTY BENEFICIARIES

11.1 This Agreement shall not be assigned by either party without the prior written consent of the other party, except that AT&T may assign this Agreement, without the consent of TMC, if such assignment is to a subsidiary or affiliated corporation of AT&T.

11.2 This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

11.3 The rights and obligations established in this Agreement are personal to TMC and AT&T and shall not be construed as creating any rights in favor of any party other than TMC and AT&T and their respective successors and permitted assigns.

XII. NOTICES

REDACTED

12.1 All notices required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given on the date delivered in person or on the

date mailed, by certified mail, postage prepaid, return receipt requested and addressed as follows:

To TMC: T. J. Huzjack
Tele-Matic Corporation
6675 S. Kenton Street
Englewood, Colorado 80111

To AT&T: M. N. Gambrell
AT&T
295 N. Maple Avenue
Room 6155G1
Basking Ridge, New Jersey 07920

12.2 The foregoing notwithstanding, any written notice sent by any other means (including fax) shall be deemed sufficient if the party to whom such notice was sent acknowledges receipt in writing. The notice shall be valid as of the date of such signed acknowledgment.

12.3 The address to which such notices shall be sent to a party may be changed by written notice given by such party to the other party pursuant to this Section XII.

XIII. AMENDMENTS; WAIVERS

13.1 Except as otherwise specifically provided herein, this Agreement may be amended or modified only by written agreement signed by an authorized representative of each party.

13.2 No waiver of any provisions of this Agreement and no consent to any default under this Agreement shall be effective unless made in writing and signed by the party against whom such waiver or consent is claimed.

13.3 No failure or delay by any party to enforce or require performance of any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.

13.4 Waiver by either party of any default by the other party shall not be deemed a waiver of any other default.

XIV. OTHER TERMS.

14.1 Headings. The captions, headings and numbering of the sections, subsections and schedules herein are for the sake of convenience and reference only and shall not be deemed to define or modify the contents or meaning of any part of this Agreement.

14.2 Severability. In the event that any provision of this Agreement is adjudicated invalid, illegal or

unenforceable, TMC and AT&T shall promptly meet and attempt to replace such provision with a mutually acceptable provision, which, being valid, legal and enforceable, comes closest to the intentions of the parties underlying the invalid, illegal or unenforceable provision. If the parties are unable to agree on such a provision, and such provision is material to this Agreement, then either party may immediately terminate this Agreement.

14.3 Governing Law. This Agreement shall be governed by and construed in accordance with the local laws of the State of New Jersey.

14.4 Entire Agreement. This Agreement, together with any Attachments attached hereto and any Schedules executed by the parties, embodies the entire agreement and understanding between the parties and supersedes all prior agreements and understandings between the parties relating to the subject matter hereof.

14.5 Independent Contractors. The parties declare and agree that each party is engaged in business which is independent from that of the other party and each party shall perform its obligations hereunder as an independent contractor and not as the agent, employee, or servant of the other party. Furthermore, nothing contained herein shall create the relationship of a joint venture or partnership and neither party has the authority to execute any agreement on behalf of the other.

REDACTED

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

TELE-MATIC CORPORATION

AMERICAN TELEPHONE AND
TELEGRAPH COMPANY

By: 

By: 

Name: Terry D. Johnson

Name: Gerald A. Hines

Title: President

Title: Director

SCHEDULE A
PENNSYLVANIA DEPARTMENT OF CORRECTIONS

This is a Schedule to the Agreement between TELE-MATIC CORPORATION ("TMC") and AMERICAN TELEPHONE AND TELEGRAPH COMPANY ("AT&T") effective November 1, 1991 (the "Agreement").

TMC agrees that it will provide its inmate calling System in connection with a trial to be conducted by AT&T and Bell of Pennsylvania for the Department of Corrections of the Commonwealth of Pennsylvania (the "Department") at the State Correctional Institution at Pittsburgh (the "Institution"). The trial will commence on or about November 1, 1991 and will last for a period of one hundred and twenty (120) days after the commencement date.

The terms and conditions of the Agreement will govern TMC's provision of services during the trial except as modified by the following:

- (1) TMC will not provide monitoring or recording equipment during the trial;
- (2) AT&T will be the provider to the inmates of interLATA calls and Bell of Pennsylvania will be the provider of intraLATA calls (including local calls);
- (3) TMC will install at the commencement of the trial ninety-two (92) Con-Quest telephones at the Institution for use by inmates; and
- (4) In accordance with Section 3.2A of the Agreement, AT&T will pay TMC a Transaction Fee (as defined in Section 3.1 of the Agreement) of \$.265 per completed call which will be discounted in accordance with Section 3.2B of the Agreement if AT&T prepays such fees.

If, during or at the end of the trial, the Department requests AT&T to continue providing inmate calling services at the Institution or to expand such services to other institutions using the TMC services provided hereunder, AT&T shall use TMC to assist in the provision of such services, subject to terms and conditions to be agreed upon in writing by the parties covering such additional services.

This Schedule is effective November 1, 1991 and shall terminate at the conclusion of the trial or such other date as may be agreed to by the parties in writing.

WHEREFORE, this Schedule has been executed by the authorized representatives of the parties.

TELE-MATIC CORPORATION

By 

Name Terry D. Johnson

Title President

**AMERICAN TELEPHONE AND
TELEGRAPH COMPANY**

By 

Name Gerald A. Hines

Title Director