This Contract is entered into by and between the Washington State Department of Corrections, hereinafter referred to as “Department” or “DOC,” and Swank Motion Pictures, Inc., located at 10795 Watson Road, St. Louis, Missouri, and hereinafter referred to as “Contractor,” for the express purposes set forth in the following provisions of this Contract. The Department and Contractor may be collectively referred to as the “Parties” or individually as a “Party.”

WHEREAS the purpose of this Contract is for Contractor to license DOC for public performance exhibition; and

WHEREAS this is a Client Services Contract authorized under RCW 39.36.125.

NOW THEREFORE, in consideration of the terms and conditions contained herein, or attached and incorporated and made a part hereof, the Department and Contractor agree as follows:

I. CONTRACT TERM

Subject to other Contract provisions, the term under this Contract will be as indicated separately for DOC Correctional Facilities and Work/Training Release Facilities in Attachment B Statement of Work, unless earlier terminated as provided herein.

II. RIGHTS AND OBLIGATIONS

All rights and obligations of the Parties to this Contract shall be subject to and governed by the special terms and conditions contained in the text of this Contract instrument, the General Terms and Conditions attached hereto as Attachment A, and the Statement of Work attached hereto as Attachment B.

III. COMPENSATION AND PAYMENT

A. Amount of Compensation. Total compensation including expenses payable to Contractor for satisfactory performance of the work under this Contract shall be as detailed in Attachment B Statement of Work.

B. Compensation is contingent upon Contractor meeting the performance standards and attaining the outcome measures for the contracted services that are detailed in the Statement of Work, Attachment B. Any additional services provided by the Contractor must have the prior written approval of the Department.

C. Time of Payment. Payment shall be considered timely if made by the Department within 30 days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor. The Department may, at its sole discretion, terminate the
Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

D. Method of Payment. Compensation for services rendered shall be payable upon submittal of properly completed invoices. The Contractor shall submit invoices to the Contract Manager together with a detailed statement of the Contract services performed for which the Contractor is seeking compensation.

E. Invoices Required. Requests for payment under this Contract shall be submitted by the Contractor on Invoices (State Form A-19) prepared in the manner prescribed by the Department. These invoices shall include such information as is necessary for the Department to determine the exact nature of all expenditures. Each invoice will clearly indicate that it is for the services rendered in performance under this Contract.

IV. INSURANCE

A. Contractor shall maintain insurance coverage in full force and effect during the entire term of this Contract as set out below. The insurance required shall be issued by an insurance company authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds. All policies shall be primary to any other valid and collectible insurance. Contractor shall instruct the insurers to give the Department 30 days advance notice of any insurance cancellation.

B. Professional Liability: Contractor shall maintain professional liability insurance during the term of this Contract, including coverage for losses caused by errors or omissions. Such policy shall contain the following limits: Each occurrence - $1,000,000; General Aggregate - $2,000,000.

C. Commercial Form General Liability Insurance (contractual liability included) with minimum limits of $2,000,000.00 for each occurrence and $4,000,000.00 for general aggregate. If the insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Contract. The insurance shall have a retroactive date of placement prior to or coinciding with the commencement of the Term of this Contract.

D. In the event that services delivered pursuant to this Contract involve the use of vehicles, either owned or unowned by the Contractor, Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than $1,000,000 per accident.

E. The Contractor will at all times comply with all applicable workers’ compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. The State will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this Contract.

F. Contractor will provide the Department with one copy of the certificate of insurance for each coverage required under the Contract. Each copy will contain the contract number to which it applies at the top and shall be sent to the Contracts and Legal Affairs Section at...
Contractor shall immediately notify the Contracts and Legal Affairs Section in the event such policy is terminated, canceled, or modified.

V. CONTRACT REPRESENTATIVES

A. The Department’s Contract Manager for this Contract shall be Dianne K. Doonan. The Contract Manager shall be responsible for monitoring the performance of the Contractor, the approval of actions by the Contractor, approval for payment of billings and expenses submitted by the Contractor, and the acceptance of any reports by the Contractor.

B. The Contractor’s representative for this Contract shall be John Kersting, who will be contact person for all communications regarding the conduct of work under this Contract.

VI. INDEPENDENT CONTRACTOR STATUS

The Contractor is not an employee of the Department of Corrections. By signing this Contract, the Contractor certifies that he or she is not a current Department employee, and will advise the Department immediately should this status change. This Contract shall become null and void if the Contractor accepts employment with the Department. The Contractor shall not hold himself out as nor claim to be an officer or employee of the State of Washington by reason hereof. The Contractor agrees not to make any claim, demand, or application to or for any right or privilege applicable to a Department employee or state of Washington employee including but not limited to, workmen’s compensation coverage or retirement membership or credit or any other benefit which would accrue to a civil service employee.

VII. INTERPRETATION OF CONTRACT

A. Order of Precedence. In the event of an inconsistency in this Contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special terms and conditions contained in this basic Contract instrument
- Any other provision, term, or material incorporated herein by reference or otherwise incorporated

B. Entire Agreement. This Contract including referenced schedules represents all the terms and conditions agreed upon by the Parties. No other understanding or representations, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the Parties hereto.

C. Conformance. If any provision of this Contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

D. Counterparts. This Contract may be executed in duplicate originals and, for all purposes, each duplicate shall be deemed an original copy of the Contract signed by each Party.
E. Approval. This Contract shall be subject to the written approval of the Department’s authorized representative and shall not be binding until so approved. The Contract may be altered, amended, or waived only by a written amendment executed by both Parties.

THIS CONTRACT, consisting of four (4) pages and two (2) attachments, is executed by the persons signing below who warrant that they have the authority to execute the Contract.

SWANK MOTION PICTURES, INC.

[Signature]
John Kestings
(Printed Name)
Institution Sales Manager
(Title)
June 24, 2021
(Date)

DEPARTMENT OF CORRECTIONS

[Signature]
Debra J. Eisen
(Printed Name)
Contracts Administrator
(Title)
June 24, 2021
(Date)

Approved as to Form: This Contract format was approved by the Office of the Attorney General. Approval on file.
1. MAINTENANCE OF RECORDS

1.1 During the term of this Contract and for six (6) years following its termination or expiration, Swank Motion Pictures shall maintain, and provide Customer or its designee, at no additional cost, with reasonable access to Swank Motion Picture’s records sufficient to:

   Document performance of all services required by this Contract; and

   Substantiate Swank Motion Pictures’ statement of its organization’s structure, tax status, capabilities, performance and principals; and

   Demonstrate accounting procedures, practices, and records, which sufficiently and properly document Swank Motion Pictures’ invoices to Customer and all expenditures made by Swank Motion Pictures to perform as required by this Contract.

1.2 If any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

1.3 Should an audit, conducted under the authority of this section, disclose that Swank Motion Pictures has been paid by Customer in excess of the agreed upon costs (overpayment), or has been reimbursed by Customer for direct or indirect costs which are disallowed as a result of that audit, then, Swank Motion Pictures shall, upon demand by Customer, repay such overpayment or reimbursement to Customer without requiring further legal action by Customer.

1.4 The provisions of this section shall survive termination or expiration of this Contract.

2. PUBLIC RECORDS ACT

2.1 This Agreement and all records associated with the performance of this Agreement shall be available from Customer for inspection and copying by the public when required by the Public Records Act, Chapter 42.56 RCW (the "Act").

2.2 If records in the custody of Swank Motion Pictures are needed by Customer to respond to a request under the Act, as determined by Customer, Swank Motion Pictures agrees to make them promptly available to Customer. Upon request by Customer, Swank Motion Pictures further agrees to provide a detailed index of records associated with its performance of the contract. This index will allow for more efficient and accurate identification of potentially responsive records.

2.3 If Swank Motion Pictures considers any portion of any record associated with Swank
Motion Pictures's performance under this Agreement to be protected from disclosure under law, Swank Motion Pictures shall clearly identify the specific information that it claims to be confidential or proprietary when the records are provided to Customer in response to a public records request. The Customer retains sole discretion in the appropriateness and application of withholdings and redactions on all records.

2.4 If Customer receives a request under the Act to inspect or copy information identified by Swank Motion Pictures as confidential or proprietary and Customer determines that release of the information is required by the Act or otherwise is appropriate, Customer’s sole obligation shall be to notify Swank Motion Pictures (a) of the request and (b) of the date that such information will be released to the requester unless Swank Motion Pictures obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If Swank Motion Pictures fails to timely obtain a court order enjoining disclosure, Customer will release the requested information on the date specified with whatever withholdings and redactions it deems proper.

2.5 The Customer is not obligated to claim any exemption from disclosure under the Act on behalf of Swank Motion Pictures. The Customer shall not be liable to Swank Motion Pictures for releasing records not clearly identified by Swank Motion Pictures as confidential or proprietary. The Customer shall not be liable to Swank Motion Pictures for releasing any records in compliance with this section, in compliance with the Act, or in compliance with an order of a court of competent jurisdiction.

3. EQUALITY IN COMPENSATION

3.1 Swank Motion Pictures must ensure that similarly employed individuals in its workforce are compensated as equals, consistent with the following:

Employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed.

Swank Motion Pictures may allow differentials in compensation for its workers based in good faith on any of the following:

C. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.

A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience, that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
A bona fide regional difference in compensation level must be: consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

3.2 This Contract may be terminated if Customer or the Department of Enterprise Services determines that Swank Motion Pictures is not in compliance with this provision.

4. REGISTRATION WITH DEPARTMENT OF REVENUE

Swank Motion Pictures shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

5. RIGHT OF INSPECTION

At no additional cost all records relating to Swank Motion Pictures’s performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by Customer, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. Swank Motion Pictures shall provide access to its facilities for this purpose.

6. ACCESS TO DATA

Swank Motion Pictures shall, at no additional cost, provide access to data generated under this Contract to Customer, the Washington State Joint Legislative Audit and Review Committee, and the Washington State Auditor. This includes access to all information that supports the findings, conclusions, and recommendations of Swank Motion Pictures’s reports, including computer models and methodology for those models.

7. TERMINATION OF NON-AVAILABILITY OF FUNDS

If the funds the Department relied upon to establish this Contract are withdrawn or reduced, or if new or modified conditions are placed on such funds, the Secretary may terminate this Contract immediately. If this Contract is so terminated, the Department shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination.

8. ACCESSIBILITY COMPLIANCE

Swank Motion Pictures hereby warrants that any technology provided under this Agreement currently complies, and will continue to comply, with Washington State Office of Chief Information Officer ("OCIO") Policy 188 (http://ocio.wa.gov/policy/accessibility) and Minimum Accessibility Standard 188.10 (http://ocio.wa.gov/policy/minimum-accessibility-standard). Swank Motion Pictures agrees to promptly respond to and resolve any complaint brought to its attention regarding accessibility of its products or services. Swank Motion Pictures further agrees to indemnify and hold harmless the Washington State Department of Corrections from any claim arising out of Swank Motion Pictures’s failure to comply with the aforesaid requirements.
SWANK MOTION PICTURES, INC.
PUBLIC PERFORMANCE LICENSING STATEMENT OF WORK
AGREEMENT FOR CORRECTIONAL INSTITUTIONS

This AGREEMENT is made on this 2nd day of June, 2021, between WASHINGTON DEPARTMENT OF CORRECTIONS ("Licensee" herein) and SWANK MOTION PICTURES, INC. ("Swank" herein), a Missouri corporation.

1. Subject Matter and Term of Agreement

   A. Swank is an authorized distributor of copyrighted motion pictures ("DVDs" herein) for non-theatrical public performances. Swank desires to license Licensee for public performance exhibition. Licensee desires to exhibit movies licensed from Swank on the terms and conditions set forth herein.

   B. The term of this Agreement shall commence on July 1, 2021 and continue through June 30, 2022, after which day it shall expire unless renewed or renegotiated by mutual agreement of the parties.

2. License

   Producers listed are those supplying titles at the time of this printing.

   During the term of this contract, Swank shall license Licensee for public performance in its facility on the terms and conditions set forth herein. New facilities added during the term of this contract will require an amendment agreed to in writing by both parties. During the contract period, Licensee may exhibit DVD for showings only at its location(s) listed in Exhibit A. Licensee shall be entitled to choose from Swank's current and future list of available movies for public performance purposes which includes titles distributed by Paramount Pictures, Warner Bros, Bleeker Street, Fine Line Features, Lorimar Productions, New Line Cinema, Picturehouse, RKO Films, The Ladd Company, Turner Pictures, Warner Independent Pictures, Warner Premier, A24 Films, STX Entertainment, MGM/UA, American International, Orion, United Artists, Lions Gate Films, Trimark, Sony Pictures, Columbia Pictures, Epic Productions, Tristar Pictures, Triumph Films, Paramount Vantage, NBC Universal Pictures, Polygram, Focus Features, Gramercy, October Films, USA Films, Summit Entertainment, Lantern Entertainment, Buena Vista Distribution, Hollywood Pictures, Miramax, Touchstone Pictures and Walt Disney Pictures. Rentals and or purchases of titles covered by this Agreement are at the expense of the Licensee.

3. Terms

   In consideration of the License, WASHINGTON DEPARTMENT OF CORRECTIONS shall pay Swank a License Fee of $75,504.12 payable in one installment upon receipt of invoice. This Agreement is based on an average population of 14,548.

4. Payment

   Invoice is due and payable upon receipt.

5. Advertising

   These motion pictures are specifically licensed for non-theatrical showings only. Promotion or advertising outside the Facility is strictly prohibited.

6. Warranties

   Swank warrants that:

   Swank is authorized by the copyright owners of the titles distributed by Swank to license to others for non-theatrical public performance purposes.

Page 1 of 2
7. Notices

All notices to be given hereunder shall be in writing or delivered personally or mailed by pre-paid certified or registered mail (return receipt requested) as follows:

If to Swank:
SWANK MOTION PICTURES, INC.
10795 Watson Road
St. Louis, Missouri 63127-1012
Attn: John Kersting
Institution Sales Manager

If to Licensee:
WASHINGTON DEPARTMENT OF CORRECTIONS
P O BOX 41114
Olympia, WA 98504-1114
Attn: Dianne K. Doonan
Assistant Comptroller, Strategic Planning

or to such other addresses as the parties shall specify, or by written notice so given, and shall be deemed to be given as of the date so delivered or mailed.

8. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

EXECUTED on the day and year first above written.

By
John Kersting
Institution Sales Manager

WASHINGTON DEPARTMENT OF CORRECTIONS
By
Debra Eisen
Name
Contracts Administrator

EXHIBIT A

LOCATION:
WASHINGTON DEPARTMENT OF CORRECTIONS
(see attached)
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SWANK MOTION PICTURES, INC.
PUBLIC PERFORMANCE STATEMENT OF WORK AGREEMENT
FOR CORRECTIONAL INSTITUTIONS

This AGREEMENT is made on this 8TH day of June 2021, between WASHINGTON STATE DEPARTMENT OF CORRECTIONS - WORK/TRAINING RELEASE FACILITIES ("Licensee" herein) and SWANK MOTION PICTURES, INC. ("Swank" herein), a Missouri corporation.

1. Subject Matter and Term of Agreement

   A. Swank is an authorized distributor of copyrighted motion pictures ("DVDs" herein) for non-theatrical public performances. Swank desires to license Licensee for public performance exhibition. Licensee desires to exhibit movies licensed from Swank on the terms and conditions set forth herein.

   B. The term of this Agreement shall commence on October 1, 2021 and continue through June 30, 2022 after which day it shall expire unless renewed or renegotiated by mutual agreement of the parties.

2. License

Producers listed are those supplying titles at the time of this printing.

During the term of this contract, Swank shall license Licensee for public performance in its facility on the terms and conditions set forth herein. New facilities added during the term of this contract will require an amendment agreed to in writing by both parties. During the contract period, Licensee may exhibit DVD for showings only at its location(s) listed in Exhibit A. Licensee shall be entitled to choose from Swank’s current and future list of available movies for public performance purposes which includes titles distributed by Paramount Pictures, Warner Bros, Bleeker Street, Fine Line Features, Lorimar Productions, New Line Cinema, Picturehouse, RKO Films, The Ladd Company, Turner Pictures, Warner Independent Pictures, Warner Premier, A24 Films, STX Entertainment, MGM/UA, American International, Orion, United Artists, Lions Gate Films, Trimark, Sony Pictures, Columbia Pictures, Epic Productions, Tristar Pictures, Triumph Films, Paramount Vantage, NBC Universal Pictures, Polygram, Focus Features, Gramercy, October Films, USA Films, Summit Entertainment, Lantern Entertainment, Buena Vista Distribution, Hollywood Pictures, Miramax, Touchstone Pictures and Walt Disney Pictures. Rentals and or purchases of titles covered by this Agreement are at the expense of the Licensee.

3. Terms

In consideration of the License, WASHINGTON STATE DEPARTMENT OF CORRECTIONS - WORK/TRAINING RELEASE FACILITIES shall pay Swank a License Fee of $3,043.94 payable in one installment upon receipt of invoice. License fee is based on an average of 782 detainees residing in the twelve Work Release Centers Listed. Nine Months

4. Payment

Invoice is due and payable upon receipt.

5. Advertising

These motion pictures are specifically licensed for non-theatrical showings only. Promotion or advertising outside the Facility is strictly prohibited.

6. Warranties

Swank warrants that:

Swank is authorized by the copyright owners of the titles distributed by Swank to license to others for non-theatrical public performance purposes.

Page 1 of 2
7. Notices

All notices to be given hereunder shall be in writing or delivered personally or mailed by pre-paid certified or registered mail (return receipt requested) as follows:

If to Swank:

SWANK MOTION PICTURES, INC.
10795 Watson Road
St. Louis, Missouri 63127-1012
Attn: John Kersting
Institution Sales Manager

If to Licensee:

WASHINGTON STATE DEPARTMENT OF CORRECTIONS
- WORK/TRAINING RELEASE FACILITIES
PO Box 41100
Olympia, WA 98504-1100
Attn: Dianne K. Doonan
Assistant Comptroller, Strategic Planning

or to such other addresses as the parties shall specify, or by written notice so given, and shall be deemed to be given as of the date so delivered or mailed.

8. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

EXECUTED on the day and year first above written.

EXHIBIT A

LOCATION:
WASHINGTON STATE DEPARTMENT OF CORRECTIONS - WORK/TRAINING RELEASE FACILITIES
Ahtanum View Work/Training Release
Bellingham Work/Training Release
Bishop Lewis Work/Training Release
Brownstone Work/Training Release
Eleanor Chase Work/Training Release
Helen B. Ratcliff Work/Training Release
Longview Work/Training Release
Olympia Work/Training Release
Peninsula Work/Training Release
Progress Work/Training Release
Reynolds Work/Training Release
Tri-Cities Work/Training Release

By: John Kersting
Institution Sales Manager

WASHINGTON STATE DEPARTMENT OF CORRECTIONS - WORK/TRAINING RELEASE FACILITIES

By: ________________________________
Name: Debra Eisen
Title: Contracts Administrator