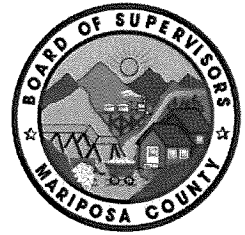


MARIPOSA COUNTY

Sheriff's Office • 209 966-3615



RESOLUTION - ACTION REQUESTED 2021-474

MEETING: August 10, 2021

TO: The Board of Supervisors

FROM: Jeremy Briese, Sheriff

RE: Network Communications International Corp. (NCIC) Inmate Telephone Service Agreement

RECOMMENDATION AND JUSTIFICATION:

Approve a Three-year Inmate Telephone Service Agreement with NCIC to install and maintain an Inmate Communication Operating System; and Authorize the Board of Supervisors Chair to sign the Agreement.

On September 25th, 2020 Legacy Inmate Communications relinquished all inmate communications contracts in California to NCIC. NCIC has been providing all inmate communications for the Mariposa County Adult Detention Facility since that time.

In addition to being interested in pursuing a financially successful partnership, the Sheriff's Office has been interested in pursuing digital visitation to enhance the existing in-person visitation. Digital inmate visitation has been trending in the industry and has obvious benefits to the inmate population, their families as well as government. NCIC will provide tablets in conjunction with the existing kiosks to facilitate digital visitation, messaging and educational programs to the inmate population. This will allow for a higher level of communications access and programming for the inmate population.

Per California Penal Code section 4015 the revenue generated by the Inmate Communications System is used to support Inmate Services and will be deposited into the Mariposa County Inmate Welfare Fund (361).

Penal Code Section 4025 (d) directs where the money, refund, rebates, or commission received from a telephone company or pay telephone provider will be deposited when the commission is attributable to the use of a pay telephones which are primarily used by inmate while incarcerated.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors typically supports the Sheriff's Office direction specific to identifying successful providers of services to Jail functions.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Mariposa County could elect to not renew the contract with the current vendor reducing the level of service being provided for the inmates. This would cause a hardship for inmate communications.

FINANCIAL IMPACT:

No negative financial impact; Agreement generates revenue for Inmate Welfare Fund 361, which by statute is controlled by the Sheriff.

ATTACHMENTS:

NCIC 9-01-21 to 8-31-2024 (PDF)

RESULT: ADOPTED [UNANIMOUS]

MOVER: Rosemarie Smallcombe, District I Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Smallcombe, Sweeney, Long, Forsythe, Menetrey

INMATE COMMUNICATIONS SERVICE SUBSCRIBER AGREEMENT**FOR INMATE TELEPHONE SERVICES, VIDEO VISITATION SERVICES, AND
INMATE TABLET SYSTEM****CONTRACT BETWEEN MARIPOSA COUNTY SHERIFF'S OFFICE AND NETWORK
COMMUNICATIONS INTERNATIONAL CORP. dba NCIC INMATE COMMUNICATIONS.**

This NCIC Inmate Communications Service Subscriber Agreement ("Agreement") is made this 1st day of September, 2021 ("Effective Date"), by and between NCIC Inmate Communications (Provider), a Texas corporation, having its principal place of business at 607 E Whaley St., Longview, Texas 75601, and Mariposa County Sheriff's Office ("Subscriber") having its principal place of business at:

Address: 5099 Old Hwy N

City, State & Zip Code: Mariposa, CA 95338

Contact: Lt. Jake Bobman

Phone: (209) 966-3616

Email address: jbobman@mariposacounty.org

WITNESSETH

Whereas, Subscriber is the governmental or private entity responsible for the management, supervision, custody, protective care and control of 1) inmates housed in the following jail(s) and/or prison(s):

Mariposa County Jail
5379 CA-49,
Mariposa, CA 95338

(the jail(s) and/or prison(s) are referred to in this Agreement as the "Facility" or "Facilities") and 2) all buildings, grounds, property and matters connected with the Facility or Facilities.

Whereas, Provider is qualified and willing to provide Subscriber inmate telephone, video visitation, inmate tablets and related communication services

Now, therefore, in consideration of the mutual benefits to be derived hereby, Subscriber and Provider do hereby agree as follows:

I. TERM

(A). This Agreement shall begin on the Effective Date and continue in full force and effect for a period of three (3) years from such date ("Initial Term") and will automatically renew under the same terms and conditions for two (2) renewal options of one (1) year each, upon mutual Agreement of the Parties.

II. TERMINATION

Subscriber may terminate this Agreement by sending written notice of termination to Provider, and Provider must receive the written notice no later than ninety (90) days prior to the date the Initial Term ends. Provider shall have the right to terminate this Agreement pursuant to the provisions of Paragraph VI(J).

III. INMATE TELEPHONE SYSTEM

A. Installation of Inmate Telephone System

Provider shall provide to the Subscriber, at no cost, a fully operational, local and long distance, secure and reliable Inmate Telephone System (ITS) to be installed at the Facility. The ITS provided to Subscriber shall include all equipment, installation, infrastructure and network, training, operation, and ongoing repairs and maintenance of the entire system and its components which, at a minimum, shall meet Subscriber's requirements and be in compliance with any industry standard.

B. Provider's Responsibilities

Provider shall be responsible for the following with regard to the ITS:

1. Adhering to any and all municipal, state or federal requirements for ITS installation, certification, training or registration during the life of the agreement;
2. Complying with all FCC regulatory requirements and any other requirements imposed by local, state and federal regulatory agencies for all ITS and related services provided throughout the duration of the agreement;
3. Making all ITS modifications necessary to allow inmates to place calls in compliance with any industry dialing requirement change(s) at no cost to Subscriber;
4. Complying with and updating the ITS for any regulatory changes and requirements during the life of the Agreement. These changes include federal, state or local municipal regulatory changes. These changes shall be made within a reasonable time frame at no cost to Subscriber;
5. Providing a comprehensive ITS that will allow for collect, prepaid collect and debit calls for local, Intralata/intrastate, interlata/intrastate, interlata/interstate, and international calls;
6. Providing an ITS which includes, but is not limited to, system infrastructure, network, database, servers, new call processors, digital and analog communications circuits, telecommunications capabilities, monitoring and recording functionality, and any additional required system functionality;
7. Installing new inmate telephone equipment at all included Facilities and any required station cabling as determined necessary;
8. Providing systems and equipment that support the Facility's or Facilities' call monitoring/security needs, including terminals and digital recording equipment as determined necessary;
9. Providing a centralized database which shall contain all data elements necessary for provision of monitoring services, reporting and historical call transaction information;
10. Providing personnel to include field repair/site technicians to perform oversight, operational assistance and preventative maintenance/repair to the ITS and equipment;
11. Providing ongoing maintenance, repair, and/or replacement and/or upgrades of all equipment and systems as determined necessary to ensure adequate service delivery;
12. Providing all required training and instructional materials required for use of the telephone services as applicable to inmates, families, and/or Facility staff; and

13. Providing all related support services not otherwise indicated herein.

C. ITS Installation

As part of the installation process of the ITS at the Facility, Provider shall:

1. Provide all required materials, equipment, hardware, software and station cabling (where re-using existing station cabling is unavailable or new locations are required) for installation and maintenance of the ITS;
2. Wherever possible, Provider shall re-use existing station cabling installed at each Facility for the telephone instruments. In cases where existing station cabling cannot be used, Provider shall install new station cabling (Category 3 minimum) at no cost. Any new cabling shall include wall plate, cross connection, patch cords, etc. as required. Provider shall comply with all applicable electrical codes;
3. Comply with the security guidelines on institutional security policies; and
4. Provide all coordination required with any local bandwidth provider and other carriers during installation and for the duration of the Agreement.

D. ITS System Functionality

The ITS installed by Provider shall have the following functions:

1. A system fully supported by an infrastructure which has the capability to provide specified services such as secure and real-time monitoring of telephone calls;
2. Security features which prevent unauthorized individuals from accessing any information held by Provider;
3. Secured access to the system and the database for Subscriber's authorized users;
4. Complete support of all systems and software necessary to ensure provision of services at all times for the duration of the Agreement.; and
5. An automated announcement function capable of processing calls on a selective bi-lingual basis: English and Spanish.

E. Ownership of Inmate Telephone Equipment

Throughout the term of the Agreement, Provider shall own all systems and equipment installed at the Facility and shall conduct all maintenance, repairs, upgrades and replacement to systems and equipment at no cost to Subscriber. Provider and Subscriber agree that at no time shall any of the systems and equipment installed at the Facility become a fixture such that it becomes a part of the real property where the Facility is located. Provider and Subscriber agree that all systems and equipment installed at the Facility will remain personal property owned by Provider.

F. Responsibilities of Subscriber

Subscriber shall be responsible for the following:

1. Obtaining all necessary written consents from any other governmental or private entity for Provider and/or its subcontractors to:

- a. Access any part of the Facility deemed necessary by Provider;
 - b. Perform any and all work necessary to install, repair, replace, or remove the ITS and its components; and
 - c. Perform any contractual duty imposed on Provider in this Agreement.
2. Supplying Provider and/or its subcontractors with security guidelines on institutional security policies;
 3. Providing security, where needed, to Provider's employees and/or contractors during the installation, replacement, maintenance, or removal of the ITS and its components;
 4. Properly accounting for the commissions received under this Agreement to any other necessary governmental or private entity; and
 5. Providing prompt notice to Provider of any damage, defect, or needed repair to the VVS or any of its components.

G. ITS Commission Payment to Subscriber

Provider will forward a monthly payment to Subscriber on or about the 30th day starting after the initial traffic month to allow for a billing cycle to complete. Such payment shall be equal to Sixty Five Percent (**65%**) of gross call revenue to Provider originating from the Facility, net of federal, state and local taxes, pre-paid account fees, billing statement fees, approved free calls and any other cost recovery mechanism(s). The details regarding payments and revenue-share are provided within **Attachment A – Rates, Fees and Commissions** of this Agreement. Provider and Subscriber agree that in the event that rates and fees are decreased as mandated by any local, state, or federal agency that adversely affects Provider's profitability under this Agreement, Provider and Subscriber shall engage in good-faith discussions regarding adjustment of the contractual terms, which may involve a decrease in ITS commission payments to Subscriber in such a manner that allows for the Agreement to be profitable for Provider and mutually beneficial for Provider and Subscriber. Monthly revenue statements will be provided to Subscriber for commission payments based on gross revenue upon request.

H. Equipment Service & Maintenance

With regard to the ITS, Provider shall provide fully functional equipment to support service delivery as specified herein at all designated Facilities in regards to all labor, materials, service hardware and/or software. Provider shall further warrant that any ITS equipment installed for Subscriber shall be free of defects, irregularities, code violations and shall operate as designed and proposed or negotiated. Time is of the essence in completing emergency and other service repairs or replacements. Thus, Provider is required to meet all response times as required by the Facility to return the system to normal operating status. In the event of extraordinary obstacles to service delivery for which Provider exceeds the time-to-service requirement, notification and a detailed plan of service shall be provided to the Facility, and Subscriber shall accept the detailed plan of service.

IV. VIDEO VISITATION SYSTEM

A. Installation of Video Visitation System

Provider shall provide to Subscriber, at no cost, a fully operational, secure and reliable Video Visitation System (VVS) to be installed at the Facility. The VVS shall, depending on the requirements of Subscriber, be capable of completing both on-site (standard) and off-site (remote) visitation sessions, as well as a range of complementary inmate applications such as secure inmate messaging, inmate tickets, and access to

third-party applications based on the preferences and allowances of Subscriber. The VVS installed by Provider shall include all equipment, installation, infrastructure and network, training, operation, and ongoing repairs and maintenance of the entire system and its components which, at a minimum, shall meet Subscriber's requirements and be in compliance with any industry standard.

B. Provider's Responsibilities

Provider shall be responsible for the following with regard to the VVS:

1. Adhering to any and all municipal, state or federal requirements for VVS installation, certification, training or registration during the life of the agreement;
2. Complying with all FCC regulatory requirements and any other requirements imposed by local, state and federal regulatory agencies for all VVS and related services provided throughout the duration of the agreement;
3. Making all VVS modifications necessary to allow inmates to participate in VVS sessions in compliance with any industry requirement change(s) at no cost to Subscriber;
4. Complying with and updating the VVS for any regulatory changes and requirements during the life of the Agreement. These changes include federal, state or local municipal regulatory changes. These changes shall be made within a reasonable time frame at no cost to Subscriber;
5. Providing a comprehensive VVS that will allow for on-site and off-site visitation services based on the needs of Subscriber;
6. Providing a VVS which includes, but is not limited to, system infrastructure, network, database, servers, new visitation processors, communications circuits, visitation monitoring and recording functionality, and any additional required system functionality;
7. Installing new video visitation equipment at all included Facilities and any required station cabling as determined necessary;
8. Providing systems and equipment that support the Facility's or Facilities' visitation monitoring/security needs, including visitation terminals and digital recording equipment as determined necessary;
9. Providing a centralized database which shall contain all data elements necessary for provision of monitoring services, reporting and historical visitation transaction information;
10. Providing personnel to include field repair/site technicians to perform oversight, operational assistance and preventative maintenance/repair to the VVS system and equipment;
11. Providing ongoing maintenance, repair, and/or replacement and/or upgrades of all equipment and systems as determined necessary to ensure adequate service delivery;
12. Providing all required training and instructional materials required for use of the video visitation services as applicable to inmates, families, and/or Facility staff; and
13. Providing all related support services not otherwise indicated herein.

C. VVS Installation

As part of the VVS installation process at the Facility, Provider shall:

1. Provide all required materials, equipment, hardware, software and station cabling (where re-use is unavailable or new locations are required) for installation and maintenance of the VVS;
2. Wherever possible, re-use existing station cabling installed at each Facility for the visitation stations. In cases where existing station cabling cannot be used, Provider shall install new station cabling at no cost. Any new cabling shall include wall plate, cross connection, patch cords, etc. as required. Provider shall comply with all applicable electrical codes;
3. Provider shall comply with the security guidelines on institutional security policies.
4. Provider shall provide all coordination required with any local bandwidth provider and other carriers during installation and for the duration of the Agreement; and
5. Ensure that informational flyers, placards or other media is provided to inmates and visitors showing VVS use instructions, rate information and any other information deemed essential to the utilization of the VVS.

D. VVS System Functionality

The VVS installed by Provider at the Facility shall have the following functions:

1. The VVS will be suitable for a correctional environment, sturdy, tamper-resistant, and will provide high-quality, stereo audio and broadcast-quality video;
2. The VVS shall be capable of completing on-site visitation sessions at no cost to the general public or inmate; however, Provider will charge a per-minute rate for any off-site (remote) visitation sessions connected;
3. Provider shall provide remote access to Subscriber's authorized users for the purpose of managing inmate visitation profiles, monitoring visitation sessions, applying visitation restrictions and managing visitation scheduling;
4. The VVS shall allow Subscriber's authorized users to remotely shut down and/or disable an individual inmate visitation station or group of visitation stations quickly and selectively without affecting other visitation stations. Further, the VVS shall be capable of limiting the length of a video visitation session, providing service at certain designated times of the day/week/month, and allowing a maximum number of video visitation sessions per inmate per week or month;
5. The VVS shall include a web-based scheduling application that allows visitors (public and professional) to register, schedule, fund and/or cancel standard and remote visitation sessions using an internet browser and internet connection; and
6. The VVS shall fully monitor and record all visitation sessions, unless there are restrictions that prohibit the recording and monitoring of certain sessions, such as privileged attorney-client communications.

E. Ownership of Video Visitation Equipment

Throughout the term of the Agreement, Provider shall own all systems and equipment installed at the Facility and shall conduct all maintenance, repairs, upgrades and replacement to systems and equipment at no cost to Subscriber. Provider and Subscriber agree that at no time shall any of the systems and equipment installed at the Facility become a fixture such that it becomes a part of the real property where the Facility is located. Provider and Subscriber agree that all systems and equipment installed at the Facility will remain personal property owned by Provider

F. VVS Commission Payment to Subscriber

Provider will forward a monthly payment to Subscriber on or about the 30th day starting after the initial traffic month to allow for a billing cycle to complete. Such payment shall be equal to Twenty Five Percent (**25%**) of gross remote visitation session revenue associated with remote visitation originating from the Facility, net of federal, state and local taxes, pre-paid account fees, approved free visitation sessions and any other cost recovery mechanism(s). It is understood that on-site (standard) visitation is typically provided at no cost to inmates and their friends or family. The agreed-upon rates for off-site (remote) visitation sessions are referenced in **Attachment A – Rates, Fees and Commissions** of this Agreement. Provider and Subscriber agree that in the event that rates and fees are decreased as mandated by any local, state, or federal agency that adversely affects Provider's profitability under this Agreement, Provider and Subscriber shall engage in good-faith discussions regarding adjustment of the contractual terms, which may involve a decrease in VVS commission payments to Subscriber in such a manner that allows for the Agreement to be profitable for Provider and mutually beneficial for Provider and Subscriber. Monthly revenue statements will be provided to Subscriber for commission payments based on gross revenue upon request.

G. Responsibilities of Subscriber

Subscriber shall be responsible for the following:

1. Obtaining all necessary written consents from any other governmental or private entity for Provider and/or its subcontractors to:
 - a. Access any part of the Facility deemed necessary by Provider;
 - b. Perform any and all work necessary to install the VVS and its components; and
 - c. Perform any contractual duty imposed on Provider in this Agreement.
2. Supplying Provider and/or its subcontractors with security guidelines on institutional security policies;
3. Providing security, where needed, to Provider's employees and/or contractors during the installation, replacement, maintenance, or removal of the VVS and its components;
4. Properly accounting for the commissions received under this Agreement to any other necessary governmental or private entity; and
5. Providing prompt notice to Provider of any damage, defect, or needed repair to the VVS or any of its components.

H. Equipment Service & Maintenance

With regard to the VVS, Provider shall provide equipment to support service delivery as specified herein at all designated Facilities that are fully functional with regard to all labor, materials, service hardware and/or software. Provider shall further warrant that any VVS equipment installed for Subscriber shall be free of defects, irregularities, code violations and shall operate as designed and proposed or negotiated. Time is of the essence in completing emergency and other service repairs or replacements. Thus, Provider is required to meet all response times as required by the Facility to return the system to normal operating status. In the event of extraordinary obstacles to service delivery for which Provider exceeds the time-to-service requirement, notification and a detailed plan of service shall be provided to the Facility, and Subscriber shall accept the detailed plan of service.

V. INMATE TABLET SYSTEM

A. Provision of Inmate Tablet System

Provider shall provide an Inmate Tablet System designed to provide tablet computers (the “Inmate Tablet”) that securely introduce a range of applications and services on each Inmate Tablet to the inmate population at Subscriber’s Facility of Facilities. Applications and services on the Inmate Tablet may include educational content, communications services (e.g. inmate calling, inmate messaging and video visitation), entertainment options, religious services and access to approved third-party services. Subscriber shall be solely responsible for approving each application, program, or service on each Inmate Tablet provided to the inmate population at the Facility.

B. Provider’s Responsibilities

Provider shall be responsible for the following with regard to the Inmate Tablet System:

1. Adhering to any and all municipal, state or federal requirements for Inmate Tablet installation, certification, training or registration during the life of the agreement;
2. Complying with all FCC regulatory requirements and any other requirements imposed by local, state and federal regulatory agencies for all Inmate Tablets and related services provided throughout the duration of the agreement;
3. Making all Inmate Tablet modifications necessary to allow inmates to utilize tablets in compliance with any industry requirement(s) at no cost to Subscriber;
4. Complying with and updating the Inmate Tablets for any regulatory changes and requirements during the life of the Agreement. These changes include federal, state or local municipal regulatory changes. These changes shall be made within a reasonable time frame at no cost to Subscriber;
5. Providing a comprehensive Inmate Tablet solution that will allow for a range of inmate communication, educational, and facility service applications based on the requirements and approval of Subscriber;
6. Providing a comprehensive Inmate Tablet solution including, but not limited to, system infrastructure, network, database, servers, telecommunications capabilities, monitoring and recording functionality, and any additional required system functionality;
7. Installing new Inmate Tablet equipment at all included Facilities and any required station cabling and wireless infrastructure as determined necessary by Subscriber;
8. Providing systems and equipment that support the Facility’s or Facilities’ Inmate Tablet monitoring/security needs, including wireless infrastructure, Inmate Tablet charging

equipment, proper storage, storage backup, retrieval, and retention of data utilizing equipment supplied by Provider and as determined necessary by Subscriber;

9. Providing a centralized database which shall contain all data elements necessary for provision of monitoring services, reporting and historical Inmate Tablet session transaction information;
10. Providing personnel to include field repair/site technicians to perform oversight, operational assistance and preventative maintenance/repair to the Inmate Tablet system and equipment, as needed;
11. Providing ongoing maintenance, repair, replacement and/or upgrades of all equipment and systems as determined necessary to ensure service delivery;
12. Providing all required training and instructional materials required for use of Inmate Tablet services as applicable to inmates, families, and/or Facility staff, and;
13. Providing all related support services not otherwise indicated herein.

C. Inmate Tablet System Payment

Provider will forward monthly payment to Subscriber on or about the 30th day starting after the initial traffic month to allow for a billing cycle to complete. The agreed-upon rates for all inmate communications services administered through the Inmate Tablets are referenced in **Attachment A – Rates, Fees and Commissions** of this Agreement. Provider and Subscriber agree that in the event that rates and fees are decreased as mandated by any local, state, or federal agency that adversely affects Provider's profitability under this Agreement, Provider and Subscriber shall engage in good-faith discussions regarding adjustment of the contractual terms, which may involve a decrease in Inmate Tablet System commission payments to Subscriber in such a manner that allows for the Agreement to be profitable for Provider and mutually beneficial for Provider and Subscriber. Monthly revenue statements will be provided to Subscriber for commission payments based on gross revenue upon request.

D. Equipment Service & Maintenance

With regard to the Inmate Tablet System, Provider shall provide fully functional equipment to support service delivery as specified herein at all designated Facilities in regards to all labor, materials, service hardware and/or software. Provider shall further warrant that any Inmate Tablet System equipment installed for Subscriber shall be free of defects, irregularities, code violations and shall operate as designed and proposed or negotiated. Time is of the essence in completing emergency and other service repairs or replacements. Thus, Provider is required to meet all response times as required by the Facility to return the system to normal operating status. In the event of extraordinary obstacles to service delivery for which Provider exceeds the time-to-service requirement, notification and a detailed plan of service shall be provided to the Facility, and Subscriber shall accept the detailed plan of service.

E. Responsibilities of Subscriber

Subscriber shall be responsible for the following:

1. Obtaining all necessary written consents from any other governmental or private entity for Provider and/or its subcontractors to:
 - a. Access any part of the Facility or Facilities deemed necessary by Provider; and
 - b. Perform any and all work necessary to install the Inmate Tablet System and its components; and

- c. Perform any contractual duty imposed on Provider in this Agreement;
2. Supplying Provider and/or its subcontractors with security guidelines on institutional security policies;
3. Providing security to Provider's employees and/or contractors during the installation, replacement, maintenance, or removal of the Inmate Tablet System and its components;
4. Properly accounting for the commissions received under this Agreement to any other necessary governmental or private entity; and
5. Providing prompt notice to Provider of any damage, defect, or needed repair to the VVS or any of its components.

VI. MISCELLANEOUS

A. Termination

Either party may terminate this Agreement for cause prior to expiration of the initial term if there is an alleged breach of the term(s) by the offending party. If an alleged breach of this Agreement occurs, the offended party shall provide written notice to the offending party, demanding that the offending party cure said breach within thirty (30) days. The cure period may be extended to a mutually agreeable date up to ninety (90) days if the default cannot be reasonably cured within the specified time and if the defaulting party has begun to cure the default. Notice shall be delivered by certified mail (return receipt requested), by other method of delivery whereby an original signature is obtained, or in-person with proof of delivery.

B. Indemnification

Provider shall be liable, and agrees to be liable for, and shall indemnify, defend and hold Subscriber, its employees, agents, officers, heirs, and assignees harmless from any and all demands, claims, suits, judgments, or damages including court costs and attorney's fees arising out of intentional acts, negligence, or omissions by Provider, or its employees or agents, in the course of the operations of this Agreement. This obligation by Provider to indemnify, defend, and hold Subscriber harmless includes without limitation all costs, expenses, and attorney's fees incurred on account of any demands, claims, suits, judgments, or damages.

Subscriber shall be liable, and agrees to be liable for, and shall indemnify, defend and hold Provider, its employees, agents, officers, heirs, and assignees harmless from any and all demands, claims, suits, judgments, or damages including court costs and attorney's fees arising out of intentional acts, negligence, or omissions by Subscriber, or its employees or agents, in the course of the operations of this Agreement. This obligation by Subscriber to indemnify, defend, and hold Provider harmless includes without limitation all costs, expenses, and attorney's fees incurred on account of any demands, claims, suits, judgments, or damages.

C. Provider's Insurance

Provider agrees to maintain the insurance coverage required to be maintained by Provider and to maintain such insurance in effect at all times during the existence of this Agreement.

D. Assignment

In the event that Provider transfers, sells, or assigns its rights under this agreement, there shall be no required consent by Subscriber to the assignment of this Agreement.

E. Force Majeure

Neither party shall be liable for loss or damage suffered as a result of any delay or failure in performance under this Agreement or interruption of performance resulting directly or indirectly from acts of God, fire, explosions, earthquakes, floods, water, wind, lightning, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, strikes, or labor disputes.

F. Severability

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted, so long as the material purposes of this Agreement can still be determined and effectuated.

G. Governing Law

This Agreement is executed and entered into in the State of Texas, and shall be construed, performed and enforced in all respects in accordance with the laws, rules and regulations of the State of Texas.

H. No Third-Party Beneficiaries

Except as otherwise expressly provided herein, neither this Agreement, nor any amendment, addendum or exhibit attached hereto, nor term, provision or clause contained therein, shall be construed as being for the benefit of, or providing a benefit to any party not a signatory hereto.

I. Exclusivity and Right of First Refusal

In consideration of compensation and services provided herein, Subscriber grants to Provider the exclusive right to install and maintain telephones and/or inmate communications systems of any type, including the Inmate Telephone System, the Video Visitation System, and the Inmate Tablet System (the "Inmate Communications Systems") within its Facility or on its private property (Location) during the term of this Agreement. Provider and Subscriber have agreed upon specific rates for inmate collect, debit and prepaid collect calls, video visitation sessions, as well as ancillary inmate communications technologies as described in **Attachment A – Rates, Fees and Commissions** of this Agreement.

Except for existing third-party vendors and only until such third-party vendor's contract expires, Subscriber will not allow any products or services that compete with any of those products or services that are or could be supplied by Provider during the term of this Agreement to be, or to remain, installed at Subscriber's Facility, including any present or future Subscriber Facilities. Provider will have the exclusive right to provide those products and services to be installed, implemented, or used at Subscriber's Facility throughout the term of this Agreement, including any renewals and/or extensions of this Agreement, and shall also have the exclusive right to install, monitor, and provide services for any other Inmate Communication Systems, including but not limited to inmate communications, educational or entertainment products or services, deposit kiosk services, tablets, video visitation, inmate electronic messaging, inmate electronic mail, sought by Subscriber to be used, installed, or implemented at the Facility during the term of this Agreement, whether the products or services are for inmates located at Subscriber's Facility or at third-party Facilities owned and/or managed by Subscriber; however, that Provider shall not be obligated to exercise this exclusive right.

J. Circumstances Uncontrollable by Provider

Provider reserves the right to renegotiate or terminate this Agreement upon thirty (30) days written notice upon the occurrence of circumstances outside Provider's control related to the Facilities including, without limitation, 1) changes in rates, regulations, or operations mandated by law; 2) reduction in inmate population or capacity; 3) changes in jail policy or economic conditions; 4) acts of God or actions constituting force majeure, as stated in Paragraph IV(E) above; or 5) actions taken by the Facility that negatively impact the Providers business. Subscriber acknowledges that Provider's provision of the services is subject to certain federal, state or local regulatory requirements and restrictions which are subject to change from time to time and nothing contained herein shall restrict Provider from taking the necessary actions in order to be in compliance with those federal, state, or local regulatory requirements.

K. Suspension of Unused Applications

With regard to applications, software, or products that are licensed to Subscriber such as Voice Biometrics, Call Transcription Services and other features, products or applications licensed as part of the Inmate Telephone System, if the features, products, or applications are not accessed or used within ninety (90) consecutive days, Provider reserves the right to disable such applications and only re-enable such applications when requested.

L. Cooperative Purchasing for other Agencies

Subscriber will permit other County and State agencies to utilize the terms and conditions of this Agreement, offering the prices and the terms and conditions offered herein to other government agencies who wish to participate in a cooperative purchase program with Subscriber's agency, where such cooperative usage will contribute to any volume discounts or incentives for participating agencies. Participating agencies may include the services, purchase and installation, removal, modifications, and maintenance. Other agencies will be responsible for entering into separate Agreements with the Contract and for all payments thereunder.

M. Successors and Assigns

Each of the covenants in this Agreement shall be binding upon and inure to the benefit of the successors and assigns of Provider and Subscriber.

N. Entire Agreement

Unless the parties agree otherwise in a written agreement which specifically identifies this Agreement, including any attachments, by date of execution and signatories, any services requested by Subscriber and any goods, services, or equipment furnished by Provider shall be provided by Provider under the terms of this Agreement. In the event of any conflict between this Agreement and any work order or purchase order, this Agreement shall control. This Agreement supersedes all other agreements, oral or written, previously entered into with respect to the subject matter contained in this Agreement and the transactions which it contemplates, and it contains the entire agreement of the parties, including without limitation all agreements with respect to warranties.

O. Counterpart Execution and Electronic Signatures

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together constitute but one and the same instrument. All parties consent to the use of DocuSign or a similar electronic document execution service to take place of a physical signature on this Agreement, and that the electronic signatures will be the same as if physically signed by each party.

P. Further Assurances

The provisions of this Agreement are intended to be self-operative and shall not require further agreement by the parties unless otherwise specifically provided herein. Nonetheless, all parties shall cooperate fully to execute any and all supplementary documents, and to take all additional actions that are consistent with and which may be necessary or appropriate to give full force and effect to the terms of this Agreement.

Q. Dispute Resolution

Prior to the filing of a lawsuit by any party to this Agreement, Provider and Subscriber agree that any disputes between them shall be resolved in the following manner:

- a. The parties shall refer the dispute to a certified mediator in order for the mediator to conduct a mediation of the dispute and attempt to reach a mutual agreement between the parties concerning the dispute. Said mediation shall commence no later than thirty (30) days after the receipt of notice by the other party that mediation of the dispute is requested. The parties shall mediate the dispute in good faith and use all reasonable measures to resolve the dispute. The cost of the mediation shall be divided equally between the parties.
- b. If no timely resolution of the dispute occurs through mediation, any party may demand binding arbitration pursuant to Chapters 171 and 173 of the Texas Civil Practice and Remedies Code only if the parties have previously mediated the dispute.

R. Authority of Signatories

Each of the individuals signing this Agreement have full power and authority to enter into this Agreement on behalf of Provider and Subscriber and to fully bind Provider and Subscriber to the terms of this Agreement.

SIGNED on this 10th day of August, 2021.

SUBSCRIBER

57CE1262AED


 Signature

Marshall Long
 Print Name

Board of Supervisors Chair
 Title

08/10/2021
 Date

PROVIDER

57CE1262B1F




 Signature

William L. Pope
 Print Name

President
 Title

08/11/2021
 Date

Countersigned:

57CE1262B15


Rene LaRoche, Clerk of the Board

Approved as to Legal Form:

57CE1262AD9


Steven W. Dahlem

ATTACHMENT A
RATES, FEES AND COMMISSIONS

CALL TYPE	PREPAID COLLECT		INMATE DEBIT	
	CONNECTION FEE	PER MINUTE	CONNECTION FEE	PER MINUTE
LOCAL	\$0.00	\$0.21	\$0.00	\$0.21
INTRALATA / INTRASTATE	\$0.00	\$0.21	\$0.00	\$0.21
INTERLATA / INTRASTATE	\$0.00	\$0.21	\$0.00	\$0.21
INTERLATA / INTERSTATE	\$0.00	\$0.21	\$0.00	\$0.21
MEXICO	\$0.00	\$0.25	\$0.00	\$0.25
INTERNATIONAL	\$0.00	\$0.35	\$0.00	\$0.35
COMMISSION AMOUNT:	65% of Gross Call Revenue			
ADDITIONAL TECHNOLOGIES				
CHARGE/FEE NAME			AMOUNT	
REMOTE (OFF-SITE) VIDEO VISITATION – PER MINUTE RATE:			\$0.30	
ON-SITE VIDEO VISITATION – PER MINUTE RATE:			\$0.00 (Free)	
SECURE INMATE MESSAGING – PER MESSAGE RATE:			\$0.25 (\$0.35 per Attachment)	
REMOTE VIDEO VISITATION and INMATE MESSAGING – COMMISSION:			25% of Gross Visit / Messaging Revenue	
INMATE COMMUNICATION SYSTEM – FEES				
CHARGE/FEE NAME			AMOUNT	
LIVE OPERATOR TRANSACTION FEE:			\$5.95	
AUTOMATED OPERATOR TRANSACTION FEE:			\$3.00	
WEB TRANSACTION FEE:			\$3.00	

Subscriber Initials: ML Provider Initials: WP
 Date: 08/10/2021 Date: 08/11/2021

SWD