

ATTACHMENT

A

INMATE COMMUNICATION SERVICES AGREEMENT

Santa Barbara County Sheriff's Office

THIS AGREEMENT ("Agreement") is made by and between the County of Santa Barbara, a political subdivision of the State of California ("County") and Telmate, LLC, a wholly owned subsidiary of Global Tel* Link (GTL) with an address at 12021 Sunset Hills Road, Suite 100, Reston, VA 20190 ("Vendor"), wherein Vendor agrees to provide and County agrees to accept the services specified herein, effective September 01, 2018 ("Effective Date").

WHEREAS, Vendor represents that it is specially trained, skilled, experienced, and competent to perform the special services required by County and County desires to retain the services of Vendor pursuant to the terms, covenants, and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. AGREEMENT

- 1.1. Pursuant to RFP No.:FY2018, County hereby awards this Agreement to Vendor and provides Vendor the exclusive right and privilege to install and operate all inmate communication services (inmate telephone service, video visitation services, and correctional-grade tablets) and related equipment at County's Northern Branch Jail (NBJ). County shall provide Vendor the exclusive right and privilege to install and operate inmate communication services at Southern Branch Jail (SBJ) effective February 1, 2019 or other date mutually agreed upon, in writing, by County and Vendor. **Attachment 1 –Mandatory Requirements** of the RFP is hereby incorporated into the Agreement and attached hereto as **Attachment 1 – Mandatory Requirements**. Details surrounding County's Facilities and required equipment can be found in **Attachment 1- Section I (Facility Specifications)**. Vendor shall, at no cost to County, provide all wiring for the inmate and visitation telephones, install the inmate and visitation telephones and the related hardware and software specifically identified herein, to enable inmates at the Facilities to make free, collect, pre-paid and/or debit local, long distance and international calls and visitation sessions from the Facilities pursuant to the terms set forth herein.
- 1.2. Vendor shall provide turn-key video visitation solution (VVS) for Northern Branch Jail which shall include, without limitation, automated scheduling software, completion of onsite and remote video visitation sessions. Vendor shall install and operate all video visitation stations and related equipment. Vendor shall, without cost to County, provide all wiring for the video visitation stations, install the video visitation stations and related hardware and software specifically identified herein, to enable visitors/end-users to schedule and complete onsite and remote video visitation sessions with inmates from the Facilities.
- 1.3. Vendor shall provide correctional-grade mobile device/tablet solution ("Tablets") at no cost to County. The Tablets shall, at a minimum, have the capability to access various applications including electronic messaging, education, instructional material, entertainment, media, inmate requests, medical requests, grievances and commissary ordering. County reserves the right to add an ITS and/or VVS application to the Tablets if selected.

2. TERM

- 2.1. This Agreement shall commence upon the Effective Date above and remain in force for an initial term of 3 years with an expiration date of August 31, 2021 ("Initial Term"). This Agreement shall not bind, nor purport to bind, County for any contractual commitment in excess of the Initial Term. However, County, at its sole option, shall have the right to renew this Agreement for 2 additional 1 year terms or on a month to month basis (not to exceed 12 months) prior to expiration of the Initial Term or renewal term of this Agreement. In the event County exercises such right, all terms and conditions, requirements, and specifications of this Agreement, and any Amendments, shall remain the same and apply during the renewal term(s). This Agreement will not automatically renew.

3. VENDOR RESPONSIBILITIES

Vendor shall agree to all terms and conditions set forth in this Agreement, and Vendor shall agree to the specifications, including, but not limited to, the features and functionalities of the inmate telephone system ("ITS"), VVS and Tablets listed in **Attachment 1 – Mandatory Requirements**. If County designates an agent to act on County's behalf ("Designated Agent"), Vendor shall follow County's direction in working with such Designated Agent.

NEGOTIATED TERMS

4. SURETY BOND

Vendor shall furnish a Surety Bond in the form of a bond issued by a Surety Company authorized to do business in the state of State Name a Cashier's Check, or Irrevocable Letter of Credit payable to County within 10 calendar days after the Agreement execution date and prior to any installation work or equipment delivery. The Surety Bond must be made payable to County in the amount of \$150,000.00 and will be retained during the full period of the Agreement and/or renewal term(s). Personal or company checks are not acceptable. The Agreement name and/or dates of performance must be specified on the Surety Bond. In the event that County exercises its option to extend the Agreement for an additional period, Vendor shall be required to maintain the validity and enforcement of the Surety Bond for the said period, pursuant to the provisions of this paragraph, in an amount stipulated at the time of the Agreement renewal.

5. MINIMUM ANNUAL GUARANTEE

Vendor shall pay County a Minimum Annual Guarantee ("MAG") in the amount of \$500,000.00 for each year under this Agreement. Additional MAG requirements are included in **Attachment 1, Section A (General Conditions)**.

6. UPFRONT SUPPLEMENTAL PAYMENT

Vendor shall pay County an upfront supplemental payment in the amount of \$100,000.00 within 5 days of the date the Agreement is executed by both parties.

7. REVENUE SHARE, PAYMENT AND REPORTING

- 7.1. Pursuant to Vendor's response to RFP No.: FY2018, Vendor shall remit to County 72% revenue share on Gross Revenue generated by and through the ITS. Gross Revenue is defined in **Attachment 1- Section D (General Conditions)**.

- 7.2. Pursuant to Vendors' response to RFP No.: FYI2018, Vendor shall remit to County 15% revenue share on Gross Revenue generated by and through the VVS. Gross Revenue is defined in **Attachment 1- Section D (General Conditions)**.
- 7.3. Pursuant to Vendors' response to RFP No.: FYI2018, Vendor shall remit to County 25% revenue share on Gross Revenue generated by and through the Tablets. Gross Revenue is defined in **Attachment 1- Section D (General Conditions)**.

8. RATES AND FEES

- 8.1. Both parties herein mutually agree upon the rates and fees for the ITS, VVS and Tablets as detailed in **Attachment 1, Section J (Rates, Fees and Revenue Share)**.

9. ADDITIONAL TECHNOLOGY

Vendor shall provide the following additional technology at no cost to County, as further detailed in **Attachment 1 – Section H (Additional Technology)**.

10. RECONCILIATION

- 10.1. County, or its Designated Agent, shall have the right from the Effective Date of this Agreement and for a period of 2 years after the termination date of this Agreement, upon 10 business days' written notice, to fully reconcile or examine any and all of County information pertaining to this Agreement. County retains the right to have another independent Agency of County's exclusive choice, perform any or all reconciliations and examinations pertaining to this Agreement. In addition, if this Agreement exceeds \$10,000.00, Vendor shall be subject to the examination and audit of the California State Auditor, at the request of County or as part of any audit of County, for a period of 3 years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). Vendor shall participate in any audits and reviews, whether by County and its Designated Agent or the State, at no charge to County.
- 10.2. Vendor shall maintain accurate, complete and reconcilable records, in an electronic format, detailing the Gross Revenues from which revenue share payments can be determined for the ITS, VVS and Tablets (if selected by County). The records shall include all CDRs, VVS detail records, EMI billing files, pre-paid card sales and associated invoices, debit usage reports and associated invoices, Tablet usage and associated purchases and revenue share reports during the term of this Agreement and for no less than 3 years after the term of this Agreement.
- 10.3. If federal, state or county audit exceptions are made relating to this Agreement, Vendor shall reimburse all costs incurred by federal, state, and/or county governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from County, Vendor shall reimburse the amount of the audit exceptions and any other related costs directly to County as specified by County in the notification.

11. ASSIGNMENT AND MERGERS/ACQUISITION

- 11.1. The services to be performed under the Agreement shall not be assigned, sublet or transferred without 30-days advance written notification to County and then only upon Vendor's receipt of County's written consent.
- 11.2. Upon receipt of County's written consent, any such purchaser, assignee, successor, or delegate shall thereupon assume all rights and responsibilities of Vendor. However, County may assign any and/or all of its rights and obligations hereunder without Vendor's written consent but upon County's written notice thereof to Vendor (1) to any affiliate; (2) pursuant to any sale or transfer of all or substantially all of its business or assets; (3) pursuant to any merger, acquisition or reorganization; or (4) as part of a bona fide pledge to a third party lending institution of collateral of the assignor's rights hereunder.
- 11.3. If during the Agreement term and any renewal term(s), Vendor merges or is acquired by another entity, the following documents must be submitted to County.
 - 11.3.1. Corporate resolutions prepared by Vendor and the new entity ratifying acceptance of all of the Agreement and its terms, conditions and processes;
 - 11.3.2. New Federal Identification Number (FEIN) if applicable; and,
 - 11.3.3. Other documentation requested by County.
- 11.4. Vendor expressly understands and agrees that it assumes and is solely responsible for all legal and financial responsibilities related to the execution of a subcontract. Vendor agrees that utilization of a subcontractor to provide any of the products/services in the Agreement shall in no way relieve Vendor of the responsibility for providing the products/services as described and set forth herein.

12. TERMINATION/DEFAULT

- 12.1. In the event Vendor fails to perform any terms or conditions of the Agreement, County may consider Vendor in default of the Agreement and supply Vendor written notice of such default. In the event said default is not remedied to the satisfaction and approval of County within 30 calendar days of receipt of such notice, County may terminate the Agreement. Upon termination, Vendor shall adhere to the transition requirements as outlined in **Attachment 1, Section D (General Installation Requirements)**.
- 12.2. The Agreement between County and Vendor may be terminated by County upon 90-days written notice from County to Vendor without penalty. Upon termination, Vendor shall adhere to the transition requirements as outlined in **Attachment 1, Section D (General Installation Requirements)**.
- 12.3. Should Vendor for any reason be unable to satisfy the requirements contained in the Agreement, County may, at its sole discretion, call for the Surety Bond due, in part or in full for non-performance, and/or as liquidated damages.
- 12.4. Should a material change in the rules or policies of the FCC or other regulatory body applicable to inmate communication services occur following the execution of the Agreement, which change affects (a) the rates permitted to be charged by the Vendor to inmates under the Agreement; (b) the right of County to recover its costs; or (c) the ability for Vendor to pay to County a revenue share, fees (including but not limited to the Cost Recoupment Payment) or other cost recovery mechanisms, then, at County's request, Vendor and County will negotiate in good faith an amendment to the Agreement reasonably

acceptable to County that enables County to fully recover its costs in a manner compliant with the change in the FCC's (or other regulatory body's) rules or policies. If Vendor and County are unable to mutually agree on such an Agreement amendment within 30 days of County's request, then County may terminate the Agreement at its sole discretion and without penalty or liability to County, and County may select another inmate communication services provider.

13. INDEMNIFICATION

- 13.1. Vendor shall defend, indemnify, and hold harmless County and its officers, officials, employees, agents and volunteers from any losses, costs (including reasonable attorney's fees and court costs) damages, judgments and/or liability) arising from actions, causes of action or claims brought or threatened under the Agreement, for (a) any actual or alleged negligence or dishonesty of, or any actual or alleged act of commission or omission by, Vendor or any of its employees, agents or subcontractors in providing the equipment and services hereunder; (b) the operation of Vendor's business or the inmate communication services; (c) any breach by Vendor of its obligations hereunder; or (d) any alleged patent, copyright or trademark infringement or unauthorized use of trade secrets or other proprietary rights in connection with the inmate communication services, except where such claims, demands or liabilities are directly resulting from to the sole negligence or willful misconduct of County, its officers, officials, employees, agents and volunteers.
- 13.2. County agrees to provide Vendor with reasonable and timely notice of any claim, demand, or cause of action made or brought against County arising out of or related to the services rendered by Vendor shall have the right to defend any such claim at its sole cost and expense and with its exclusive discretion.
- 13.3. In the event any infringement claim is made or threatened against County, or injunctive relief is granted to a claimant, Vendor shall at its sole cost and expense (i) obtain the right for County to continue use of the services; (ii) substitute other services of like capability, or (iii) replace or modify the services to render them non-infringing while retaining like capability. In the event Vendor is unable to perform any of the above, County may terminate this Agreement upon providing sixty (60) days written notice to Vendor and Vendor shall be responsible for all of County's costs and expenses of whatever nature or kind in connection therewith.
- 13.4. These indemnities and remedies shall survive the expiration or other termination of the Agreement.

14. INSURANCE

- 14.1. Contractor shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors. Annual renewals for the term of this policy should be submitted prior to the expiration date of any policy.
- 14.2. Vendor shall provide County a Certificate of Insurance, on an original ACORD certificate, evidencing required coverage described below, within 10 days after receipt of notice of award. Said certificate shall show County as an additional insured and shall include a waiver of subrogation, as described below.

- 14.3. Vendor agrees to carry and maintain Workers Compensation Insurance. Proof of Workers Compensation Insurance must be provided with the proposal to County.
- 14.4. **Minimum Scope of Insurance.** The coverage shall be at least as broad as:
- 14.4.1. **Commercial General Liability ("CGL").** Insurance Services Office ("ISO") Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
 - 14.4.2. **Automobile Liability.** ISO Form Number CA 00 01 covering any auto (Code 1), or if Vendor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
 - 14.4.3. **Workers' Compensation.** As required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
 - 14.4.4. **Professional Liability (Errors and Omissions).** Insurance appropriate to the Vendor's profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
 - 14.4.5. If the Vendor maintains higher limits than the minimums shown above, County requires and shall be entitled to coverage for the higher limits maintained by the Vendor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Vendor.
- 14.5. **Other Insurance Provisions.** The insurance policies are to contain, or be endorsed to contain, the following provisions:
- 14.5.1. **Additional Insured.** County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Vendor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Vendor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.
 - 14.5.2. **Primary Coverage.** For any claims related to this Agreement, the Vendor's insurance coverage shall be the primary insurance as respect to County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, agents or volunteers shall be excess of the Vendor's insurance and shall not contribute with it.
 - 14.5.3. **Notice of Cancellation.** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to County.
 - 14.5.4. **Waiver of Subrogation Rights.** Vendor hereby grants to County a waiver of any right to subrogation which any insurer of said Vendor may acquire against County by virtue of the payment of any loss under such insurance. Vendor agrees to

obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not County has received a waiver of subrogation endorsement from the insurer.

- 14.5.5. **Deductibles and Self-Insured Retention.** Any deductibles or self-insured retentions must be declared to and approved by County. County may require the Vendor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
- 14.5.6. **Acceptability of Insurers.** Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
- 14.5.7. **Verification of Coverage.** Vendor shall furnish County with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Vendor's obligation to provide them. The Vendor shall furnish evidence of renewal of coverage throughout the term of the Agreement. County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
- 14.5.8. **Failure to Procure Coverage.** In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, County has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by County as a material breach of contract.
- 14.5.9. **Subcontractors.** Vendor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Vendor shall ensure that County is an additional insured on insurance required from subcontractors.
- 14.5.10. **Claims Made Policies.** If any of the required policies provide coverage on a claims-made basis:
 - 14.5.10.1. The Retroactive Date must be shown and must be before the date of the Agreement or the beginning of Agreement work.
 - 14.5.10.2. Insurance must be maintained and evidence of insurance must be provided for at least 10 days after Agreement execution.
 - 14.5.10.3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, the Vendor must purchase "extended reporting" coverage for a minimum of 5 years after completion of Agreement work.

- 14.5.11. **Special Risks or Circumstances.** County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
- 14.6. Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to the Agreement. Vendor agrees to execute any such amendment within 30 days of receipt.
- 14.7. Any failure, actual or alleged, on the part of County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of County.
- 14.8. County agrees to provide Vendor with reasonable and timely notice on any claim, demand or cause of action made by or brought against County arising out of the service provided by Vendor. Vendor shall have the right to defend any such claim at its sole cost and expense and with its exclusive discretion.
- 14.9. For any person or Vendor with whom Vendor enters into a contract to provide the services defined in this RFP, Vendor must:
- 14.9.1. Provide a certificate of coverage, for all persons providing the services defined in this RFP and prior to those persons beginning work on any project, showing coverage is being provided for the duration of the Agreement. Coverage shall be based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of California Labor Code.
 - 14.9.2. Provide a new certificate, prior to the end of the coverage period, of coverage showing extension of coverage if the coverage period shown on Vendor's current certificate of coverage ends during the duration of the project.
 - 14.9.3. Retain all required certificates of coverage for the duration of the project and for 2 years thereafter;
 - 14.9.4. Notify County in writing, within 10 days after Vendor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- 14.10. Any subcontracts for the products/services described herein shall include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by Vendor and County and to ensure that County is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind related to a subcontractor in those matters described in the Agreement.

15. DISCREPANCY

- 15.1. Should a discrepancy or conflict among the specific provisions of this Agreement and its amendments, RFP No.: FY2018 and its attachments and amendments, and the Vendor's RFP response, the discrepancy or conflict shall be resolved as follows.
- 15.1.1. The specific provisions of the Agreement (and its attachments) will prevail over the RFP, its attachments and amendments.
 - 15.1.2. The RFP its attachments and amendments will prevail over the Vendor Response.

- 15.2. Exceptions or objections to specific RFP provisions in the Vendor's Response that have not been explicitly accepted by County in writing are not be included in this Agreement.

16. SUBCONTRACTS

- 16.1. Any subcontracts for the products/services described herein shall include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by Vendor and County and to ensure that County is indemnified, saved and held harmless from and against any and all claims of damage, loss and cost (including attorney fees) of any kind related to a subcontractor in those matters described in this Agreement.
- 16.2. Vendor expressly understands and agrees that it assumes and is solely responsible for all legal and financial responsibilities related to the execution of a subcontract. Vendor agrees that utilization of a subcontractor to provide any of the products/services in this Agreement shall in no way relieve Vendor of the responsibility for providing the products/services as described and set forth herein. Vendor shall identify any subcontractors used to provide services under this Agreement.
- 16.3. In the event of unsatisfactory performance, as determined by County, County may request to substitution of a subcontractor utilized by Vendor to fulfill the obligations under this Agreement.

17. FORCE MAJEURE

Neither party shall be held liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, volcanic action, other major environmental disturbances, or unusual weather conditions.

18. NOTICE

Any notice or consent required by this Agreement shall be supplied in writing in electronic format and/or delivered in person or by registered or certified mail addressed to the party's address listed below. Notice shall be presumed to have been received five (5) business days after it is deposited in a U.S. Postal Service depository.

FOR COUNTY:

Santa Barbara County Sheriff's Office
Attn: Lt. Shawn Lammer
4434 Calle Real
Santa Barbara, CA 93110

FOR VENDOR:

Telmate, LLC. a wholly owned subsidiary of GTL
Attn: Legal/Contracting
12021 Sunset Hills Road, Suite 100
Reston, VA 20190

19. ADDITIONAL REQUIREMENTS AND SPECIFICATIONS

- 19.1. Vendor shall provide any and all notices as may be required under the Drug-Free Workplace Act of 1998, 28 CFR Part 67, Subpart F, and any applicable California state laws, to the employees and all subcontractors to ensure the facility(s) maintains a drug free workplace. County reserves the right to review drug-testing results of Vendor's personnel assigned to work at the Facilities. County may require, at Vendor's expense, drug testing of Vendor's personnel if no drug testing records exist or if such test results are older than 6 months.

- 19.2. Vendor does not and shall not, during the performance of this Agreement, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.
- 19.3. County hereby notifies Vendor that County's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and Vendor agrees to comply with said ordinance.

20. MISCELLANEOUS TERMS

20.1. Independent Vendor

Nothing in this RFP is intended nor shall be construed to create an employer/employee relationship, a joint venture relationship or any other relationship allowing County to exercise control over the manner or method by which Vendor or its subcontractor perform under the Agreement.

20.2. Interpretation

This Agreement shall be interpreted under, and governed by, the Laws of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

20.3. Severability

If any part of this Agreement is contrary to any Federal, State or Local law, it is not applicable and such invalidity shall not affect the other provisions or applications of this Agreement which can be given effect without the invalid provision or applications. To that end, the provisions of this Agreement are declared to be severable. If any provision hereof is held invalid by a Court of competent jurisdiction that provision shall be automatically deleted and all remaining provisions shall remain in full force and effect.

20.4. Entirety, Waiver, and Modification

This Agreement, together with any attachments, represents the entire understanding between County and Vendor (collectively "Parties") with respect to the subject matter hereof and supersedes all prior communications, agreements and understandings relating thereto. Only a written instrument executed by the Party waiving compliance may waive or modify the terms of this Agreement. The failure of either Party at any time to require performance of any provision hereof shall in no manner affect the right at a later date to enforce the same. No waiver by either Party of any term of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be a further or continuing waiver of such term or of any other term of this Agreement.

20.5. Confidentiality

20.5.1. The Parties hereto shall keep confidential any and all information which either Party states to be confidential or proprietary and so advises the other Party or labels the information as such ("Confidential Information"). Such information shall remain the property of the Party owning such information and, when in tangible form shall be returned to the respective party or otherwise disposed of as directed by the appropriate Party. Any violation of this provision by either Party shall be actionable. However, notwithstanding the foregoing, neither Party shall be under any obligation to maintain in confidence any portion of the information it has received which (i) is now, or which becomes hereafter through no act or failure to act on the part of the receiving Party, generally known or available to

the public; (ii) is already known by the receiving Party at the time of the disclosure of such information and was not under any obligations of confidence; (iii) is hereafter furnished to the receiving Party by a source other than the owner, provided such source is not known by the receiving Party to be prohibited from disclosing such information by a contractual, legal or fiduciary obligation; (iv) has been independently developed by the receiving Party without benefit of the confidential or proprietary information of the other; or, (v) is required to be disclosed by any applicable law or regulation or by order of any governing body or court of competent jurisdiction; provided however, that the Party being required to disclose the confidential or proprietary information of the other must promptly notify the owner of same of the demand for such disclosure and such disclosure to a government entity pursuant to law, order or regulation shall not provide a basis for any additional disclosure of such information by either Party.

20.5.2. Each Party including its agents and representatives shall: (i) follow reasonable procedures to protect and maintain the confidentiality of the Confidential Information; (ii) not disclose, or allow to be disclosed, the Confidential Information to any party other than to its employees, contractors, officers, or directors who have a need to know in order to perform the services contemplated under this Agreement, and are under the same binding obligation of confidentiality provided herein with respect to any such information; (iii) not use the Confidential Information for any purpose other than to perform under this Agreement; and, (iv) treat all Confidential Information of the other Party with the same degree of care to avoid disclosure to third parties as it uses with respect to the recipient Party's own Confidential Information, but not less than a reasonable degree of care.

20.6. Limitation of Liability

In no event shall either party be liable hereunder for loss of profits, loss of goodwill, consequential or punitive damages of any kind regardless of the form or theory of any claim and irrespective of whether such party has been advised of the possibility of such damages.

20.7. Vendor Costs and Taxes and Fees on Services

It is expressly understood that County is not responsible in any way, manner or form for any of Vendor's costs, including but not limited to, taxes (including sales tax), shipping charges, network charges, insurance, interest, penalties, attorney fees, liquidated damages, licenses, fees, tariffs or other costs related to any and all Vendor's services. Vendor agrees that it is entirely responsible for calculating, collecting and remitting all fees and taxes, including sales tax where applicable, on all services and items provided to the inmates. Including, but not limited to, any and all taxes as applicable for the inmate communication services such as; collect, debit, pre-paid and any other calls, video visitation sessions and Tablet applications and transactions.

20.8. Debarment and Suspension

Vendor certifies to County that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. Vendor certifies that it shall not contract with a subcontractor that is so debarred or suspended.

20.9. Conflict of Interest

Vendor covenants that Vendor presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the

performance of services required to be performed under this Agreement. Vendor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by Vendor. Vendor must promptly disclose to County, in writing, any potential conflict of interest. County retains the right to waive a conflict of interest disclosed by Vendor if County determines it to be immaterial, and such waiver is only effective if provided by County to Vendor in writing.

20.10. No Publicity or Endorsement

Vendor shall not use County name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. Vendor shall not use County name or logo in any manner that would give the appearance that the County is endorsing Vendor. Vendor shall not in any way contract on behalf of or in the name of County. Vendor shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the County or its projects, without obtaining the prior written approval of County.

20.11. County Property and Information

All of County's property, documents, and information provided for Vendor's use in connection with the services shall remain County's property, and Vendor shall return any such items whenever requested by County and whenever required according to the Termination section of this Agreement. Vendor may use such items only in connection with providing the services. Vendor shall not disseminate any County property, documents, or information without County's prior written consent.

21. LIQUIDATED DAMAGES

- 21.1. Vendor's failure to meet Agreement requirements both correctly and on time may result in substantial injury to County; the amount of damages resulting from such failure may not always be quantified with certainty. Each failure to meet a requirement, both correctly and on time, may be subject to fines and liquidated damages as outlined herein. Any enforced fines/liquidated damages will be invoiced by County to Vendor. Payments due County for the invoiced amount(s) shall be due within 30 days of Vendor's receipt of the invoice.

LIQUIDATED DAMAGES	
Description	Amount
ITS Any changes to the monthly collect call threshold; all changes must be approved by County prior to implementation.	\$350.00 per day from the day the unauthorized change was implemented through the date Vendor discontinues the unapproved fees and/or charges.
All Inmate Communication Services Any charges/fees added to the called party's bill or account or inmate without the express written consent of County.	\$350.00 per day from the date the additional charges/fees were first added through the date the charges/fees were discontinued.
All Inmate Communication Services Unauthorized free calls, video visitation sessions or Tablet transactions completed by Vendor including allowing access to unauthorized wireless networks.	\$2.00 per completed, unauthorized free call.
All Inmate Communication Services Revenue share payments, ITS traffic detail reports, billing files, CDRs, VVS detail reports, Tablet transaction reports and/or all other reports not containing the required fields, received by County after the date specified in Attachment 1, Section A (General Conditions) . If the revenue share payment is late, reporting is late and/or reports do not contain all required fields, late charges/interest for all three shall apply. Revenue share payment discrepancies must be resolved by Vendor and to County's reasonable satisfaction, within thirty (30) days of receipt of notification of a discrepancy from County and/or its Designated Agent or such discrepancy is subject to late charges, as described and/or termination of this Agreement at the sole discretion of County and/or any legal course of action County elects to pursue.	5% per month of the revenue share amount due. \$750.00 per month for each report not received by the due date specified or for each report that does not contain all of the fields and information identified in Attachment 1, Section A (General Conditions) . \$100.00 per day for any daily CDR reports not submitted by Vendor, for each day where the CDR report does not contain all of the fields and information identified in Attachment 1, Section A (General Conditions) .
All Inmate Communication Services Any changes to the rates without the express written approval of County. Vendor must issue refunds to all overcharged end-users or inmates within 5 business days; a list of the issued credits must be provided to County as documentation. County will not issue a refund of revenue-share or cost recoupment for unapproved rate increases.	\$2.00 per completed call, video visitation session or Tablet transaction which was rated/charged using the unauthorized rates(s).
All Inmate Communication Services Any bill types, transactions or applications implemented or removed regarding the processing and/or completion of inmate telephone calls without the express written consent of County.	\$500.00 per day for each day the bill type, transaction or applications is implemented or removed.

LIQUIDATED DAMAGES (Continued)	
All Inmate Communication Services Due to Vendor's action(s), if any installation, initial or additionally requested inmate communications equipment is not completed within the timeframe allowed in the agreed-upon implementation plan.	\$500.00 per day for each day the after the agreed-upon date until the installation is complete.
All Inmate Communication Services Vendor shall be responsible for resolving any reported repairs or replacements within 10 days following the date of notification of a service request or inmate communication service failure ("Cure Period"). Should Vendor fail to resolve the reported repair or replacement within the specified Cure Period, Vendor may be liable for liquidated damages.	\$500.00 for each day after the Cure Period and for each reported repair or replacement that the Vendor fails to resolve, until each reported repair or replacement is resolved by Vendor.
All Inmate Communication Services When County suffers one or more lost, unrecoverable or un-useable recording(s). County agrees to notify Vendor of such instances and provide up to 7 days per instance for Vendor to produce the call recordings.	\$1,000.00 per occurrence.
Vendor shall adhere to County's performance process when upgrading each inmate communications service, software, equipment, or performing any changes to the inmate communications which affect the scope under this Agreement. Any deviation from the process may result in liquidated damages incurred by Vendor.	\$500.00 per occurrence.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by County.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

By: _____
Deputy Clerk

By: _____
Chair, Board of Supervisors

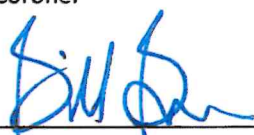
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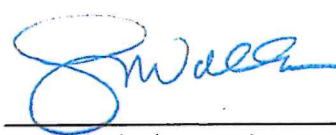
RECOMMENDED FOR APPROVAL:

Bill Brown
Sheriff-Coroner

Vendor:

Telmate, LLC. A wholly owned subsidiary of
GTL

By:  8/16/18
Department Head

By: 
Authorized Representative

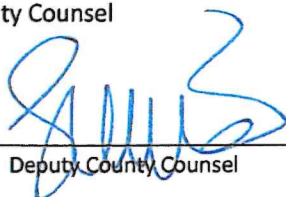
Name: Jonathan Walker
Title: EVP - Sales

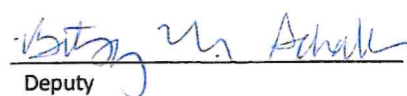
APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

APPROVED AS TO ACCOUNTING FORM:

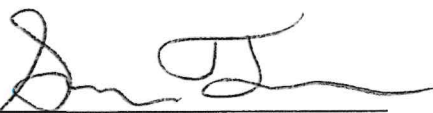
Theodore A. Fallati, CPA
Auditor-Controller

By: 
Deputy County Counsel

By: 
Deputy

APPROVED AS TO FORM:

Risk Management

By: 
Risk Management