FAIRFAX COUNTY SHERIFF'S OFFICE
INMATE COMMUNICATION SERVICES AGREEMENT

INTRODUCTION

Vendor name with its principal place of business located at Vendor Address (hereinafter "Vendor") and Fairfax County Sheriff's Office, with its principal place of business at 10520 (A) Judicial Drive, Fairfax, Virginia, 22030 (hereinafter "Customer") hereby agree to execute this Inmate Communication Services Agreement ("Agreement"), effective _____, 2025 ("Effective Date").

1. AGREEMENT

1.1. Pursuant to RFP # _____, Customer 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, Tablets and Payment Kiosks) and related equipment at Customer's Facility. **Attachment 1 – Mandatory Requirements** of the RFP is hereby incorporated into the Agreement and attached hereto as **Attachment 1 – Mandatory Requirements**. Details surrounding Customer's Facility and required equipment is found in **Attachment 1 – Section I (Facility Specifications)**. Pursuant to Vendor's response to Customer's RFP is incorporated into the Agreement and attached hereto as **Attachment 2 – Vendor Proposal.**

1.2. Vendor shall, at no cost to Customer, provide all wiring for the inmate and visitation telephones ("ITS") and install the inmate and visitation telephones and the related hardware and software specifically identified herein, to enable inmates at the Facility to make free, collect, pre-paid and/or debit local, long distance and international calls and inbound voicemails from the Facility pursuant to the terms set forth herein.

1.3. Vendor shall provide a turnkey video visitation solution ("VVS") 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 Customer, 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 Facility.

1.4. Vendor shall provide a correctional-grade mobile device/tablet solution ("Tablets") at no cost to Customer. At a minimum, Tablets shall have the capability to access various applications including electronic messaging, education, instructional material, entertainment, media, inmate requests, medical requests, grievances and commissary ordering. Customer reserves the right to add an ITS and/or VVS application to the Tablets.

1.5. Vendor shall provide stand-alone cash and credit/debit card deposit/payment devices ("Kiosks") that are specific to the intended use function and installation location. Vendor shall be solely responsible for the installation, operation, maintenance, collection and reporting activities associated with the kiosks. Vendor shall provide booking kiosks to increase the efficiency of the intake process, while alleviating staff liability for handling, securing and accounting for cash and coins an individual may have on their person at the time of booking. Vendor shall also provide touchscreen payment kiosks to enable visitors to deposit funds into an inmate debit account, inmate trust account or a prepaid collect account used by the depositor to schedule and participate in video visitation sessions and/or to receive prepaid collect phone calls.

2. TERM

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 _____ ("Initial Term"). This Agreement shall not bind, nor purport to bind, Customer for any contractual commitment in excess of the Initial Term. However, Customer, 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 Customer 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"), video visitation solution ("VVS"), correctional-grade mobile devices/tablets ("Tablets"), touchscreen payment kiosks ("Kiosks"), and the additional technology listed in **Attachment 1 - Mandatory Requirements**. If Customer designates an agent to act on Customer's behalf ("Designated Agent"), Vendor shall follow Customer's direction in working with such Designated Agent.

4. AUTHORITY

4.1. Customer has the sole responsibility and authority for negotiating, placing and when necessary, modifying this Contract and any purchase order (except for capital construction projects) issued by Customer. In the discharge of these responsibilities, the Customer may be assisted by assigned contract administrators. Specifically delegated employees are authorized to order supplies or services, enter into contracts, or in any way obligate the government of the County for an indebtedness. Any purchase orders or contracts made which is contrary to these provisions and authorities shall be of no effect and void, and Customer shall not be bound thereby.

4.2. Customer reserves the right, at any time, to amend any portion of this Contract in the form of an Amendment.

5. DISCREPANCY

5.1. In the event of a Contract discrepancy, resolution shall be achieved in the following order, with the higher-ranking documents taking place over the lower (shown higher to lower below):

- This Contract and any amendments;
- RFP # _____, Amendment 1, Amendment 2, and Amendment 3; and
- Vendor's proposal.

6. TAX EXEMPT

6.1. Customer is exempt from payment of any federal excise or any Virginia sales tax. The amount must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the price, Vendor shall show separately the amount of federal tax, either as a flat sum or as a percentage, which shall be deducted by Customer. Customer's Federal Excise Tax Exemption Number is 54-74-0127K. Vendor acknowledges that when materials are picked up by Customer at Vendors' place of business, Customer may charge and collect their own local/state sales tax.

7. OFFICIALS NOT TO BENEFIT

7.1. Upon acceptance of this Contract, Vendor certifies that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction or member of his or her immediate family, has received or will receive any financial benefit relating to the award of this Contract.

7.2. Whenever there is reason to believe that a financial benefit of the sort described above has been received in connection with this Contract, and that the Vendor has failed to disclose such benefit or has inadequately disclosed it, Customer, as a prerequisite to payment pursuant to this Contract, or at any other time, may require Vendor to furnish, under oath, answers to any interrogatories related to such possible benefit.

8. LICENSE REQUIREMENT

8.1. All firms doing business in Fairfax County shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing ("BPOL") Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: http://www.fairfaxcounty.gov/dta/business_tax.htm. Vendor's BOPL is F206649-8.

9. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH

9.1. Vendor, organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into an agreement with Customer pursuant to the Fairfax County Purchasing Resolution shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of this Contract. Customer may void any agreement with a business entity if the business entity fails to remain in compliance with the provisions of this section.

9.2. Vendor shall comply with all applicable laws, rules, regulations, and orders of any authorized agency, commission, unit of the federal government, or state, county, or municipal government at no cost to Customer. Vendor shall be authorized by the appropriate governing body and/or regulatory agency to be an Inmate Telephone Service Provider.

10. VIRGINIA FREEDOM OF INFORMATION ACT

10.1. All proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Reference Section 4D. of the Fairfax County Purchasing Resolution) and subject to the exemptions set forth therein.

11. DRUG FREE WORKPLACE

11.1. During the performance of this Contract, Vendor agrees to (i) provide a drug-free workplace for its employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the workplace and specifying actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on its behalf that it maintains a drug-free workplace; and (iv) include the above

provisions in every subcontract or purchase order over $10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purpose of this section, "drug-free workplace" means a site for the performance of work done in conjunction with this Contract and in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of this Contract.

12. VENUE

12.1. This Contract and its terms, including, but not limited to, the parties' obligations under it, the performance due from each party under it, and the remedies available to each party for breach of it, shall be governed by, construed and interpreted in accordance with the laws of the Commonwealth of Virginia. Any jurisdiction's choice of law, conflict of laws, rules, or provisions, including those of the Commonwealth of Virginia that would cause the application of any laws other than those of the Commonwealth of Virginia shall not apply. Any and all disputes, claims and causes of action arising out of or in connection with this Contract or any performance hereunder, shall be brought in the applicable court of Fairfax County, Virginia, or in the United States District Court, Eastern District of Virginia, Alexandria Division.

13. IMMIGRATION REFORM AND CONTROL ACT

13.1. Vendor does not and shall not during the performance of this Contract knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

14. VENDOR NOT TO BENEFIT

14.1. Vendor agrees that the goods and/or services provided to Customer pursuant to this Contract are for the benefit of Customer and that Vendor shall not undertake any actions or efforts stemming from or related to this Contract that shall inure to the detriment of Customer. Any information provided to Vendor for the performance of this Contract shall not be used for any other purpose without the written consent of Customer.

NEGOTIATED TERMS

15. SURETY BOND

Vendor shall furnish a Surety Bond issued by a Surety Company authorized to do business in the Commonwealth of Virginia in the form of a Bond, a Cashier's Check, or Irrevocable Letter of Credit payable to Customer 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 Customer in the amount of $100,000.00 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 number (if applicable) and/or dates of performance must be specified on the Surety Bond. In the event that the Customer 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.

16. TRAINING

16.1. Vendor shall absorb all costs associated to any initial and/or ongoing training for Customer personnel. Training includes, at Customer's discretion, capability for Customer to attend Vendor's Annual Training Summit. Customer shall have the capability to send up to 8 individuals (as designated by Customer) to attend the Annual Training Summit for each year during the term of this Agreement. Should Customer elect not to send personnel to any of the scheduled Annual Training Summits, it shall not obligate Vendor to reschedule for Customer's convenience nor entitle Customer to any monetary substitution.

17. REVENUE SHARE, PAYMENT AND REPORTING

17.1. The due date for monthly reporting or ITS, VVS, Tablets, and Kiosks is specified in **Attachment 1, Section A (General Conditions).**

17.2. Vendor shall pay revenue share to Customer, as follows on Gross Revenue generated by and through additional communication technologies and services:

17.2.1. ___% for ITS
17.2.2. ___% for VVS
17.2.3. ___% for electronic messages and photographs; and
17.2.4. ___% for Tablets.

17.3. Gross Revenue is defined in **Attachment 1, Section A (General Conditions).**

17.4. Customer reserves the right to recoup from Vendor certain administrative and operational expenses ("Cost Recoupment Payment") in connection with the provision of inmate communication services. Such Cost Recoupment Payment may take the form of a per-minute rate, flat monthly payment, or other fee structure. The Cost Recoupment Payment shall be due and payable upon receipt of the invoice by the Vendor. The Customer may accompany the Cost Recoupment Payment invoice with a supporting report documenting the administrative and operational expenses incurred by the Customer in association with inmate communication services covered by the Cost Recoupment Payment. The Customer does not require a Cost Recoupment Payment upon execution of the Agreement. In the event the Customer wishes to utilize its option to implement the Cost Recoupment Payment, then, at Customer request, the Customer and Vendor shall negotiate in good faith an amendment to the Agreement reasonably acceptable to the Customer to document the Customer-imposed Cost Recoupment Payment. If Vendor and the Customer are unable to agree mutually on such an Agreement amendment within 30 days of the Customer's request, then the Customer may terminate the Agreement at its sole discretion and without penalty or liability to the Customer, and the Customer may select another provider.

18. RATES AND FEES

18.1. Both parties herein mutually agree upon the rates and fees for inmate telephone calls, voicemail messages, video visitation sessions, Tablet services and Kiosks as detailed in **Attachment 1, Section L (Rates, Fees and Revenue Share)**.

18.2. Upon notice from Customer and at any time during the term of the agreement, Vendor agrees to negotiate an amendment to the Agreement to address changes and/or a reduction to the rates, fees, Financial Guarantee and/or revenue share.

19. ADDITIONAL TECHNOLOGY

19.1. Vendor has agreed to provide the following additional technologies and services pursuant to Vendor's response to the RFP. Requirements of the following additional technologies and services (where applicable) are outlined in **Attachment 1, Section L (Rates, Fees, and Revenue Share)**. The specific technologies are:

19.1.1. Voice Biometrics;
19.1.2. Voice-to-text;
19.1.3. Internal Voicemail;
19.1.4. Automated Information Technology System;
19.1.5. Cell Phone Detection Equipment;

19.1.6. Digital Mail Service; and

20. ATTORNEY COMMUNICATIONS

20.1. Vendor agrees that all Attorney/Privileged non-recorded calls and remote video visit sessions are to be free/at no charge to the inmates and/or called party. Attorney/Privileged calls and remote video visits that are charged and/or recorded are subject to liquidated damages as indicated in **Section 33. Liquidated Damages.**

20.2. Vendor's ITS/VVS shall have the capability to register attorney bar members automatically for non-recorded calls/video visits. Vendor is solely responsible for ensuring the accuracy of the automatic registration feature. Should an attorney bar member fail to be registered for non-recorded calls/video visits and the calls/visits are recorded, Vendor shall be subject to liquidated damages as specified in **Section 33. Liquidated Damages.**

20.3. All attorney communications via the inmate communication services including inmate telephones (wall mounted and via the Tablets), visitation sets, video visits and/or electronic messages shall not be monitored or recorded, nor shall the content of electronic messages be stored. Attorney communications recorded shall be subject to liquidated damages as listed in **Section 33. Liquidated Damages**.

21. LANGUAGES

Vendor's VVS, Tablets and Kiosks shall provide a multi-lingual language option which includes English, Spanish, Vietnamese and Korean. The inmate must be able to select the preferred language utilizing VVS stations, Tablets, and Kiosks.

22. RECONCILIATION

22.1. Customer, 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 Customer information pertaining to this Agreement. Customer retains the right to have another independent Agency of Customer's exclusive choice, perform any or all reconciliations and examinations pertaining to this Agreement.

22.2. 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 inbound voicemail via the ITS, VVS and Tablets. The records shall include all CDRs, paid video visits, tablet usage, messaging and photo transactions, pre-paid card sales and associated invoices, debit purchase or usage reports and associated invoices and commissioning reports during the term of this Agreement and for no less than 2 years after the term of this Agreement.

22.3. Vendor shall pay resolved and agreed upon amounts due plus, in the event the foregoing reconciliation reveals an amount due Customer at least 5% above the amount otherwise paid for the period reconciled, Customer's reasonable cost of reconciliation, all within 30 days of the resolution date. If the agreed upon amounts are not paid within 30 days, the amounts due to Customer will accrue interest at the rate of 1.5% per month, or the highest rate permitted by law (whichever is less) until such monies are paid.

23. ASSIGNMENT AND MERGERS/ACQUISITION

23.1. The services to be performed under the Agreement shall not be assigned, sublet or transferred without 30-days advance written notification to the Customer and then only upon Vendor's receipt of the Customer's written consent.

23.2. Upon receipt of the Customer's written consent, any such purchaser, assignee, successor, or delegate shall thereupon assume all rights and responsibilities of Vendor. However, the Customer may assign any and/or all of its rights and obligations hereunder without Vendor's written consent but upon the Customer's written notice thereof to Vendor (i) to any affiliate; (ii) pursuant to any sale or transfer of all or substantially all of its business or assets; (iii) pursuant to any merger, acquisition or reorganization; or (iv) as part of a bona fide pledge to a third party lending institution of collateral of the assignor's rights hereunder.

23.3. 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 the Customer.

23.3.1. Corporate resolutions prepared by Vendor and the new entity ratifying acceptance of all of the Agreement and its terms, conditions and processes;

23.3.2. New Federal Identification Number (FEIN) if applicable; and,

23.3.3. Other documentation requested by Customer.

23.4. 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.

24. TERMINATION OF CONTRACTS

24.1. This Contract will remain in force for the terms specified and/or until all articles ordered before date of termination have been satisfactorily delivered and accepted and thereafter until all requirements and conditions have been met, unless:

24.1.1. Terminated prior to the expiration date by Customer for Default, Convenience or Cause.

24.1.2. Extended upon written authorization by Customer and accepted by Vendor.

24.2. **Termination for Default**

In the event Vendor fails to perform any terms or conditions of the Agreement, Customer 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 Customer within 30 calendar days of receipt of such notice, Customer may terminate the Agreement. Upon termination, Vendor shall adhere to the transition requirements as outlined in **Attachment 1, Section D (General Installation Requirements).**

24.3. **Termination for Convenience**

24.3.1. This Contract may be terminated in whole or in part by Customer in accordance with this clause whenever Customer shall determine that such a termination is in the best interest of Customer. Customer may terminate this Contract at any time, without penalty, and any such termination shall be effective upon Vendor's receipt of 90 days written notice. Upon termination, Vendor shall follow the transition requirements outlined in **Attachment 1, Section D (General Installation Requirements).**

24.3.2. 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 (i) the rates permitted to be charged by the

Vendor to inmates under the Agreement; (ii) the right of the Customer to recover its costs; or (iii) the ability for Vendor to pay to the Customer a Financial Guarantee, fees (including but not limited to the cost recoupment payment) or other cost recovery mechanisms, then, at the Customer's request, Vendor and the Customer will negotiate in good faith an amendment to the Agreement reasonably acceptable to the Customer that enables the Customer 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 the Customer are unable to mutually agree on such an Agreement amendment within 30 days of the Customer's request, then the Customer may terminate the Agreement at its sole discretion and without penalty or liability to the Customer, and the Customer may select another inmate communication services provider.

24.4. **Termination for Cause**

24.4.1. If, through any cause, Vendor fails to fulfill in a timely and proper manner its obligations under this Contract, or if Vendor violates any of the covenants, agreements, or stipulations of this Contract, in addition to Customer's remedies under this Contract and all other rights available at law or in equity, Customer shall have the right to terminate this Contract upon Vendor's receipt of 90 days written notice. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by Vendor under this Contract shall, at the option of Customer, become its property.

24.4.2. Notwithstanding the above, Vendor shall not be relieved of liability to Customer for damages sustained by Customer by virtue of any breach of this Contract by Vendor for the purpose of set off until such time as the exact amount of damages due to Customer from Vendor is determined.

24.4.3. Upon termination, Vendor shall adhere to the transition requirements as outlined in **Attachment 1, Section D (General Installation Requirements).**

24.5. Should Vendor for any reason be unable to satisfy the requirements contained in the Agreement, Customer may, at its sole discretion, call for the Surety Bond due, in part or in full for non-performance, and/or as liquidated damages.

25. INDEMNIFICATION

25.1. Vendor shall defend, indemnify, and hold Customer and its affiliates, agents, employees, officers, directors, and successors harmless from loss, cost, expenses, damages or liability (including reasonable attorney's fees and court costs) resulting from actions, causes of action or claims brought or threatened under the Agreement, for (i) 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; (ii) the operation of Vendor's business or the inmate communication services; (iii) any breach by Vendor of its obligations hereunder; or (iv) 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 due to the negligence of Customer, its agents or employees.

25.2. Customer agrees to provide Vendor with reasonable and timely notice of any claim, demand, or cause of action made or brought against Customer 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. Customer will promptly advise Vendor of any proposed

agreement to compromise or settle any claim and Vendor will have ten (10) days to respond to such proposal.

25.3. In the event any infringement claim is made or threatened against Customer, or injunctive relief is granted to a claimant, Vendor shall at its sole cost and expense (i) obtain the right for Customer 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, Customer may terminate this Agreement upon providing 60 days written notice to Vendor and Vendor shall be responsible for all of Customer's costs and expenses of whatever nature or kind in connection therewith.

25.4. These indemnities and remedies shall survive the expiration or other termination of the Agreement.

26. INSURANCE

26.1. During the period of the Agreement, Vendor at its own expense agrees to carry and maintain the following minimum insurance policy of public liability and property damage issued by a casualty company authorized to do business in the Commonwealth of Virginia and in a standard form approved by the Board of Insurance Commissioners in the Commonwealth of Virginia. The insurance company should have a Best Rating of no less than A. Coverage provisions should ensure the Customer and the public from any loss or damage that may arise to any person or property as a result of the services rendered by Vendor.

26.2. Vendor shall provide Customer with 30-day advance written notice of cancellation or material changes in said insurance.

26.3. Annual renewals for the term of this policy should be submitted prior to the expiration date of any policy.

26.4. Vendor shall provide Customer 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 Customer as an additional insured and shall include a waiver of subrogation.

Automobile Liability	
Bodily Injury – Each Person	$1,000,000.00
Bodily Injury – Each Accident	$1,000,000.00
General Liability	
Bodily Injury or Death – Each Person	$1,000,000.00
Property Damage – Per Incident (Resulting in Injury/Destruction of Property)	$100,000.00
Excess Liability	
Umbrella Form	$1,000,000.00
Worker's Compensation	Statutory (In limits not less than $100,000.00)

26.5. Customer agrees to provide Vendor with reasonable and timely notice on any claim, demand or cause of action made by or brought against Customer 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.

26.6. For any person or contractor with whom Vendor enters into a contract to provide the services defined in this Agreement, Vendor must:

26.6.1. Provide a certificate of coverage, for all persons providing the services defined in this 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 Commonwealth of Virginia Labor Code;

26.6.2. 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 current certificate of coverage ends during the duration of the project;

26.6.3. Retain all required certificates of coverage for the duration of the project and for 2 years thereafter; and

26.6.4. Notify Customer in writing, within 10 business 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.

27. DISCREPANCY

27.1. Should a discrepancy or conflict among the specific provisions of this Agreement and its attachments, RFP # _____ and its attachments and amendments and the Vendor's Proposal, the discrepancy or conflict shall be resolved as follows.

27.1.1. The specific provisions of the Agreement Terms and its attachments and amendments will prevail over the RFP, its attachments and amendments.

27.1.2. The RFP, its attachments and amendments will prevail over the Vendor's Proposal.

27.2. Exceptions or objections to specific RFP provisions in the Vendor's Response that have not been explicitly accepted by the Customer in writing shall not be included in this Agreement and shall be given no weight or consideration.

28. SUBCONTRACTS

28.1. 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 the Customer and to ensure that the Customer 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.

28.2. 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.

28.3. In the event of unsatisfactory performance, as determined by Customer, Customer may request to substitution of a subcontractor utilized by Vendor to fulfill the obligations under this Agreement.

29. FORCE MAJEURE

29.1. 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.

30. NOTICE

30.1. Any notice 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 5 business days after it is deposited in a U.S. Postal Service depository.

FOR CUSTOMER:	**FOR VENDOR:**
Fairfax County Sheriff's Office	Vendor Name
Attn: Michelle Nelson	Attn:
10520A Judicial Dr.	Address Line 1
Fairfax, Virginia 22030-5115	Address Line 2

31. ADDITIONAL REQUIREMENTS AND SPECIFICATIONS

31.1. 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 Commonwealth of Virginia laws, to the employees and all subcontractors to ensure the facility(s) maintains a drug free workplace. Customer reserves the right to review drug testing results of Vendor's personnel assigned to work at the Facility. Customer 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.

31.2. 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.

32. MISCELLANEOUS TERMS

32.1. **Independent Vendor**

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

32.2. **Interpretation**

This Agreement shall be interpreted under, and governed by, the Laws of the Commonwealth of Virginia. The parties hereto agree that any action relating to this Agreement shall be instituted in a Federal Court in the County of Fairfax, Virginia.

32.3. **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.

32.4. **Entirety, Waiver, and Modification**

This Agreement, together with any attachments, represents the entire understanding between Customer 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.

32.5. **Confidentiality**

32.5.1. 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.

32.5.2. 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.

32.6. **Dispute Resolution**

The parties shall attempt to resolve any dispute arising out of or relating to this Agreement through negotiations between senior executives of the parties who have authority to settle the same. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. Disputes or controversies related to this Agreement not resolved through

negotiation within a period of 60 days shall be governed by and interpreted in accordance with the laws of Commonwealth of Virginia without regard to its conflicts of law provisions. In the event of litigation relating to this Agreement, the parties agree to submit said dispute to the jurisdiction of Commonwealth of Virginia courts.

32.7. **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.

32.8. **Vendor Costs and Taxes and Fees on Services**

It is expressly understood that Customer 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.

33. LIQUIDATED DAMAGES

Vendor's failure to meet Agreement requirements both correctly and on time may result in substantial injury to the Customer; 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 Customer to Vendor. Payments due Customer for the invoiced amount(s) shall be due within 30 days of Vendor's receipt of the invoice.

LIQUIDATED DAMAGES	
Description	**Amount**
All Inmate Communication Services Any charges/fees added to the called party's bill or account or inmate without the express written consent of Customer.	$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.

LIQUIDATED DAMAGES (Continued)	
All Inmate Communication Services Revenue share payments, ITS traffic detail reports, daily CDR reports, VVS detail reports, Tablet transaction reports, Kiosk ACH reconciliation reports and/or all other reports not containing the required fields, received by the Customer after the date specified in **Attachment 1, Section A (General Conditions), Section 5 (Financial Guarantee), Section 6 (Upfront Supplemental Payment), Section 7 (Revenue Share, Payment and Reporting) and Attachment 1, Section G (Tablet& Kiosk Requirements)**. If the Financial Guarantee, 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 Customer's reasonable satisfaction, within thirty (30) days of receipt of notification of a discrepancy from the Customer 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 the Customer and/or any legal course of action the Customer elects to pursue.	5% per month of the Financial Guarantee or 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 weekly Kiosk ACH reports not submitted by Vendor, and/or for each day where the Kiosk reconciliation reports does not contain all of the required fields and information specified in **Attachment 1, Section G (Tablet and Kiosk Requirements).** $100.00 per day for any daily CDR reports not submitted by Vendor and/or 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 Customer. 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 Customer as documentation. Customer 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 that 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, video visitation sessions, or tablet services without the express written consent of Customer.**	$500.00 per day for each day the bill type, transaction or applications is implemented or removed.
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. This includes the provision of remote access for inmate communication services.**	$500.00 per day for each day the after the agreed-upon date until the installation is complete.

LIQUIDATED DAMAGES (Continued)	
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 Vendor resolves replacement.
All Inmate Communication Services When Customer suffers one or more lost, unrecoverable or un-useable recording(s). Customer 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.
All Inmate Communication Services Vendor shall adhere to Customer's performance process when upgrading each inmate communications service, software, equipment, or performing any changes to the inmate communications that affect the scope under this Agreement. Any deviation from the process may result in liquidated damages incurred by Vendor.	$500.00 per occurrence.
All Inmate Communication Services Vendor shall adhere to **Section, 21 Attorney Communications** and **Attachment 1, Section D (General Installation Requirements)** when transferring attorney telephone numbers from the incumbent inmate telephone system provider to Vendor's ITS. Any telephone numbers and/or video visitation accounts (attorney, consulates, etc.) improperly transferred, added or uploaded via Vendor or Vendor's automated attorney verification upload feature into the ITS and/or VVS that are not properly configured for non-recorded and free calls and/or video visits. Should failure of Vendor or Vendor's automatic upload feature result in attorney/privileged call or video visit recordings and/or charges to the inmate or end-user, Vendor shall remove access to any and all unauthorized call or video recordings in the ITS and/or VVS and refund the end-user or inmate for any unauthorized charges within 24 hours of notification from Customer of such instances.	$1,000.00 per occurrence $5.00 per completed call or video visitation session that was charged to the inmate or called party.

In Witness Whereof, the Parties have set their hands as on the day and year written below, acting through their authorized representatives.

Fairfax County Sheriff's Office	**Vendor Name**
Authorized Signature	Authorized Signature
Typed or Printed Name	Typed or Printed Name
Title	Title
Date	Date