



NAPA COUNTY AGREEMENT NO. 250334B

PROFESSIONAL SERVICES AGREEMENT

This Schedule of Services Agreement is between Napa County Department of Corrections, hereinafter referred to as “Customer,” and Smart Communications Holding, LLC and/or its designated subsidiary or assignee, with principal offices located at 10491 72nd Street, Seminole, FL 33777, hereinafter referred to as “Provider.” This Schedule is part of and governed by the Master Service Agreement, the “Agreement”, executed by the Parties. The terms and conditions of the Agreement are incorporated herein by reference.

The Customer’s Facility Names and addresses are:

- Napa County Jail, 2210 Napa-Vallejo Highway, Napa, CA 94558
- Juvenile Hall, 212 Walnut St, Napa, CA 94559 (Juvenile)

Unless otherwise stated in the Agreement, Provider will only deploy inmate telephone services at Customer’s Juvenile Facility. Provider and Customer agree to the following terms and conditions in connection with Provider’s installation and provision of inmate communication services to Customer’s Main Facility:

Term of the Agreement

The term of this Agreement shall commence on the date first above written and shall expire on June 30, 2028. The term of the Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the terms and conditions then in effect, not to exceed two (2) additional years, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. For purposes of this Agreement, “fiscal year” shall mean the period commencing on July 1 and ending on June 30.

2.2 Suspension for Convenience. County may suspend all or any portion of Provider’s performance under this Agreement at its sole option and for its convenience at no cost for a period of time not to exceed 60 days. County must give 10 days prior written notice to Provider of such suspension. County may rescind the suspension prior to or at 60 days by providing Provider with written notice of the rescission, at which time Provider will be required to resume performance in compliance with the terms and provisions of this Agreement. Provider shall be entitled to an extension of time to complete performance equal to the length of the suspension unless otherwise agreed to in writing by the parties.

2.3 Termination for Convenience. County may terminate all or any portion of this Agreement at its sole option and for its convenience, by giving 30 days prior written notice of such termination to Provider. The termination of the Agreement shall be effective 30 days after receipt of the notice by Provider. After receipt of notice of termination of all or any portion of the Agreement, Provider shall immediately discontinue all affected performance (unless the



notice directs otherwise) and complete any additional work necessary for the orderly filing of documents and closing of Provider's affected performance under the Agreement. Provider shall deliver to County all data, drawings, specifications, reports, estimates, summaries, and such other information and materials created or received by Provider in performing this Agreement, whether completed or unfinished. Provider may keep copies for its own records. County shall pay Provider for services satisfactorily provided before the effective date of termination, and reasonable costs incurred by Provider in providing County with the data and documents required by this paragraph. Provider shall not be compensated for lost or anticipated profit or overhead on the terminated portion of this Agreement.

2.4 Termination for Cause. County may terminate this Agreement for default if Provider fails to satisfactorily perform any material obligation required by this Agreement. Default includes Provider's failure to timely provide services in accordance with the schedule. If Provider fails to satisfactorily cure a default within 10 days of receiving written notice from County specifying the nature of the default, County may immediately terminate this Agreement, and terminate each and every right of Provider, and any person claiming any rights by or through Provider under this Agreement. The rights and remedies of County enumerated in this paragraph are in addition to and independent of County's rights under any other provision of this Agreement and any right or remedy available to County at law or in equity.

2.4.1 Absence of Default. If after County gives notice of termination for cause, it is determined that Provider was not in default of a material obligation of this Agreement, the termination shall be deemed to be a termination for the convenience of County under paragraph 2.3.

2.5 Annual Appropriation of Funds. Provider acknowledges that the term of this Agreement may extend over multiple County fiscal years, and that compensation under this Agreement is contingent on the Board of Supervisors appropriating funding for this Agreement for those fiscal years. This Agreement may be terminated at the end of the fiscal year for which sufficient funding is not appropriated and authorized. County is not obligated to pay Provider, nor is Provider obligated to provide further services if sufficient funds have not been appropriated and authorized by the Board of Supervisors.

2.6 Purchasing Agent's Authority. The County Purchasing Agent or their designee is hereby authorized to make all decisions and take all actions required under this Article to suspend or terminate this Agreement.

Inmate Telephone System

1. Customer grants to Provider the exclusive right to install and maintain Inmate Telephone Services within and throughout Facility, including for any future expansion of telephone service to buildings or locations under control of Facility, during the term of this Agreement.



2. Provider shall establish rates for telephone services as set forth below.

INMATE TELEPHONE SYSTEM PER MINUTE CALL RATES			
Call Type	Collect	PrePaid Collect	PrePaid Debit
Local	\$0.09	\$0.09	\$0.09
IntraState	\$0.09	\$0.09	\$0.09
IntraLATA	\$0.09	\$0.09	\$0.09
InterState	\$0.09	\$0.09	\$0.09
InterLATA	\$0.09	\$0.09	\$0.09
International	\$0.09	\$0.09	\$0.09

3. All applicable taxes and fees will additionally be collected according to local, state, and federal regulations. Provider will comply with all applicable federal, state, and local regulations including, but not limited to the rules, regulations and orders of the Federal Communications Commission (FCC) and any local Public Utilities Commission.

4. Inbound voicemail messages are provided at a fixed rate of \$1.00 per voicemail.

5. This Agreement includes all other premises, whether now existing (e.g., if a different vendor has a contract and equipment at such premises, this clause applies at the earliest termination opportunity) or subsequently acquired, under the control of Customer within Provider's service areas. Customer will advise Provider in writing, of newly opened, acquired, or available premises, promptly, and Provider can evaluate installation of its telephone services at these premises.

6. Customer waives carrier selection rights, where applicable, and Provider expressly reserves the right to select and/or contract for the local, intraLATA and interLATA carrier selections for the telephones subject to this Agreement and intended for placement at Customer locations.

7. The Parties understand and acknowledge that from time-to-time regulatory authorities and other governing bodies may make rule changes that affect the financial terms of the services offered in the Agreement and thereby Provider's financial ability to maintain such services. In such event, the parties agree that Provider may make changes to its financial terms to bring its service offerings, rates, and fees both into conformance with any applicable rule changes and still maintain a reasonable profit.

8. Provider agrees to provide each incarcerated person two, 15-minute telephone calls each week at no charge.



Smart Communications' Responsibilities (Inmate Telephone System)

9. Provider's telephone services and system are provided by way of Provider's Smart-EVO™ ITS terminals. Provider anticipates providing and deploying approximately 61 terminals in Customer's Facility (4 in the Juvenile Facility), in locations that are agreed upon following a technical review and walk through.
10. Provider shall service and maintain its telephone system and Smart-EVO™ ITS terminals at Provider's expense, except as otherwise agreed upon herein.
11. Provider shall comply with the Americans with Disabilities Act (ADA) for all equipment it provides.

Customer's Responsibilities (Inmate Phone System)

12. Customer agrees to provide adequate space for installation of Provider's Smart-EVO™ ITS terminals, and easy accessibility for inmate use during the normal operating hours. In the event Customer is not the owner of the premises, Customer shall, where necessary, obtain permission from the building owner or owner's agent for the placement of the ITS terminals, and shall be responsible for any fees for use of required riser cable and electric power.
13. Customer agrees to maintain the area around the ITS terminals and ensure safe and ready access by inmates.
14. Customer agrees to allow Provider access to perform maintenance during the established hours of accessibility as jointly agreed by the parties, except when access must be denied ensuring the safety of Provider service personnel and/or to maintain institutional control.
15. Customer agrees to allow Provider, with prior written approval of Customer, access to and use of house cable and inside wire at no cost, to install and provide telephone service. Any new house cable or inside wire required during the contract term will be at the sole expense of the Provider, unless otherwise negotiated with Customer.
16. Customer agrees that any relocation, expansion, addition, or removal of ITS hardware, equipment, or terminals, which would result in extraordinary expenses must be agreed to by Provider in advance of the cost being incurred or alternately, the cost be paid by Customer.
17. Customer agrees to exercise reasonable and ordinary care to prevent the loss through theft or damage to the ITS terminals and equipment from any source.
18. Customer agrees to, at its option, purchase and provide enclosures at its own expense for Telephones. In the event Customer elects to provide its own enclosures, Customer shall be responsible for installation and maintenance of said enclosures.



19. Customer represents and warrants that Provider's ITS system will be installed on property owned by the Customer, or if Customer is not the owner of the premises, Customer has obtained permission from the Facility's owner or owner's agent.

SmartTablets™ and Secure Network

20. The SmartTablet™ system and its entire supporting infrastructure are provided at no cost to Customer or inmates.

21. Provider will furnish its proprietary SmartTablet™ on a 1:1 inmate to tablet ratio based on the Average Daily Population ("ADP"). Sufficient reserve tablets shall also be provided. Customer shall determine which inmates have access to the SmartTablets™.

22. The SmartTablet™ is a custom, wireless, ruggedized and correctional grade tablet of Provider's custom specifications that will connect to our secure network.

23. The SmartTablet™ software operating system and applications are all custom-compiled for a corrections environment to ensure that only the minimum operating system components and applications are present. The inmate only has access to applications that are approved for their use, and the operating system is only allowed to connect to our own secure wireless network within the facility.

24. The network itself is designed to facilitate applications within a corrections environment. Provider utilizes a deny-by-default policy on all traffic, so nothing may traverse the network unless specifically allowed and enabled. Provider utilizes a defense-in-depth strategy which employs many layers of security. If any one layer of security is breached, there are many others to provide continuing protection.

Distribution and Refurbishment Plan (SmartTablets™)

25. Provider will deploy tablet charging stations ("home base") within each housing unit within the facility. These home bases will be permanently installed into a housing area (e.g. wall mounted) or available via charging cart. Each home base provides the necessary connections for charging the tablets, as well as a convenient storage location to ensure all tablets are accounted for during non-usage times.

26. Based on the 1:1 deployment model, each tablet will be assigned to a specific inmate. If an assigned tablet stops working, the inmate to whom it is assigned can return it to Customer staff for shipping back to Provider for maintenance. Provider will facilitate pickup and delivery of malfunctioning and replacement SmartTablets™ at no charge to Customer.

27. Upon receipt of non-functioning tablets, Provider will evaluate to determine the cause. Tablets will either be replaced under warranty, or, if vandalism is determined to be the cause, the inmate will be responsible for repayment in accordance with the procedures set forth herein.



Damage (SmartTablets™)

28. The tablets provided are ruggedized for use in a correctional setting; however, if an inmate is determined, they can be damaged enough to require repair. Should this occur, the facility will be required to fill out a damage report form and assist in obtaining restitution. Inmates responsible for causing intentionally damaged tablets will be invoiced for the replacement cost by Provider, and such invoice can be paid through a public user or payment transfer from the inmate's trust account. Once the balance has been paid, a new tablet will be issued and assigned to the inmate.

29. Any inmates without an assigned tablet due to an unpaid balance owed for vandalism will have access to select community tablets or SmartKiosks™, as applicable, for which only essential services will be made available.

SmartInmate™ Electronic Messaging

30. Provider will provide a fully functional electronic messaging system for the inmates of the Customer's Facility (SmartInmate™), accessible via Provider's SmartTablet™ devices. Provider is responsible for providing and installing all of the hardware, the software to include the operating systems and application software, and all networking requirements needed for operation of the system. Provider shall be exclusively entitled to all revenue derived from electronic messaging and photo delivery.

31. Provider will provide at no cost to Customer the labor for the installation of the SmartInmate™ electronic messaging system.

32. Provider will provide at no cost to Customer the labor, hardware, and software needed for the continued operating, maintaining, and networking of the electronic messaging system.

33. Provider is responsible for all the costs and future costs associated with any modification, reconfiguration, or upgrade of the electronic messaging system at the Customer's Facility. These costs do not include the costs of the actual electrical power.

34. Provider will provide each inmate at Customer's Facility with credits for eight (8) messages per month at no charge, to satisfy the needs of indigent inmates.

35. Customer shall have the capability of monitoring and reviewing all electronic messages and attachments sent through the electronic messaging system, except those messages deemed to be privileged under law between attorney and client. Further, Provider will maintain a record of all electronic messages sent through the electronic messaging system for a period of seven (7) years from the time the message is sent.



36. Friends and Family can access the electronic messaging and photo delivery system via the SmartInmate.com website.
37. Electronic Messaging. Each “email” message (up to 100 characters in length) is billed at ten cents (\$0.10), which corresponds to 10 credits.
38. Photo Delivery Service. Each approved photo is billed at fifty cents (\$.50), which corresponds to 50 credits.
39. Customer and Provider will mutually agree if and when to make this service available.

Customer’s Responsibilities (SmartInmate™ Electronic Messaging)

40. Customer will provide access to the Customer Jail Facilities and space within the Facilities, subject to operational security requirements, for Provider to install, network, and maintain the electronic messaging system. Emergency access to the system will be granted as needed Monday through Friday 8:00 am to 4:00 pm. Non-emergency access will be granted within twenty-four (24) hour notice by Provider.
41. Customer will include information regarding the SmartInmate™ messaging system in Facility’s Inmate Handbook and in all other areas where information on the Inmate Telephone System is located.
42. Customer will provide information regarding the SmartInmate™ messaging system in at least one location next to the inmate mailing address on Customer’s website, with a link to the SmartInmate.com website.
43. Customer will provide (e.g., by facilitating cooperation with Customer’s JMS vendor) a list of all inmates residing in the Customer Jail Facilities and their current housing assignments via electronic delivery twice each day. Customer acknowledges that this data feed is critical to the functionality of Provider’s services herein, including to ensure that each inmate is authorized to use only those tablets appropriate to their housing assignment.
44. Customer will give prompt notice, in writing, to Provider of any trouble or irregularity in the functioning of the electronic messaging system, as a whole.

Patented MailGuard Postal Mail Elimination® System

45. Provider is the exclusive licensee of MailGuard®, the patented postal mail elimination system covered by U.S. Patent No. 11,457,013 and multiple pending patent applications.
46. Provider shall provide its patented MailGuard Postal Mail Elimination® system at no cost to Customer. Provider’s MailGuard® service converts regular incoming postal mail into an



electronic document that is delivered to the inmate recipient via the SmartTablets™ within the Customer's Facility.

47. Provider shall provide all the equipment and support services to operate the MailGuard® system and transmit incoming routine postal mail into an electronic document to be delivered to the inmate on the SmartTablets™ at no cost to Customer.

48. For purposes of this agreement, "routine mail" means all regular incoming correspondence between inmates, family and friends and excludes all legal mail, packages, books, magazines, periodicals and religious mail. All legal mail, packages, books, magazines, or other non-routine inmate mail will still be sent to Customer's Facility for delivery.

49. MailGuard® will only integrate with and transmit incoming routine mail to the SmartTablets™.

50. Provider is responsible for all the future costs associated with any modification, reconfiguration, or upgrade of the MailGuard® system at the Customer Jail Facilities. These costs do not include the costs of the actual electrical power.

51. MailGuard® shall become the Inmates' designated Agent to process and electronically deliver incoming routine inmate mail pursuant to Customer's mail policy which shall promote the intent of this Agreement.

52. Customer will instruct and publish on its website that all incoming routine mail must be sent to the designated Post Office Box for electronic delivery via the MailGuard® system.

53. Provider shall be solely responsible for the cost of maintaining the Post Office Box designated by the Customer for incoming routine mail to be sent.

54. Provider will retrieve incoming routine mail from the designated Post Office Box and process and transmit that mail in an expeditious manner.

55. The MailGuard® public website will allow inmates to log into their account and retrieve electronic copies of their processed incoming routine mail for thirty (30) days from the date of their release from the Customer's Facility.

56. Provider will maintain electronic records for a period of seven (7) years from the date the record was created. During the term of this Agreement and upon request, we will provide Customer with electronic copies of the requested record for the purpose of inspecting, examining, and auditing the Provider's records directly relevant to Customer's Facility.

57. MailGuard® will provide Customer with the capability of monitoring and reviewing all electronic mail sent through the MailGuard® system, except those messages deemed to be privileged under law between attorney and client.



58. Customer and Provider will mutually agree if and when to make this service available.

Customer's Responsibilities (MailGuard®)

59. Customer shall be responsible for informing inmates and inmates' friends and family that all routine correspondence must be sent to the designated MailGuard® Post Office Box. Customer will include information regarding the MailGuard® system in the Inmate Handbook and in all other areas where information regarding the Inmate Mail Policy and Procedures are located.

60. Customer will provide information regarding Customer's incoming postal mail policy, the MailGuard® system and the MailGuard® procedure for processing and/or disposing of all incoming mail and pictures in at least one location next to the inmate mailing address on the Customer's website and very clearly state that all incoming routine mail MUST be mailed to the MailGuard® designated Post Office Box.

61. Customer will instruct on its website that all incoming routine mail must be sent to the designated Post Office Box for electronic delivery via the MailGuard® system and display information regarding the Customer's incoming postal mail policy, the MailGuard® system and the MailGuard® procedure for processing and/or disposing of all incoming mail and pictures.

62. Should the Customer receive incoming routine mail instead of the designated Post Office Box, the Customer will return the mail to the sender.

63. Upon completion of installation and appropriate system testing, Customer will allow the MailGuard® system to go live within forty-eight (48) hours' notice of system availability.

64. Customer will give prompt notice in writing to Provider of any trouble or irregularity in the functioning of the MailGuard® system.

Patented MailGuard Legal™ System

65. Provider is the exclusive licensee of MailGuard Legal™, the patented postal mail elimination system for legal mail covered by U.S. Patent No. 10,659,630 and other pending patent applications.

66. Provider will provide, install, and maintain its patented MailGuard Legal™ Mail system, which will include one MailGuard Legal™ Mail Scanning Cart to handle the legally privileged mail or other mail deemed to be legal mail (the "Legal Mail") to be processed by the Facility.

67. Customer acknowledges and agrees that Legal Mail must be opened in the presence of the inmate.



68. Provider will install and maintain its proprietary software and the additional infrastructure necessary to operate its patented MailGuard Legal™ system, at no cost to Customer.
69. The Legal Mail may be scanned in the presence of the inmate for electronic delivery to the inmate or printed to hard copy for physical delivery to the inmate, in accordance with Provider's patented MailGuard Legal™ system.
70. Customer understands and agrees that the MailGuard Legal™ system does not allow for any electronic copies of Legal Mail to be monitored, reviewed, or investigated.
71. Customer agrees to adhere to all applicable laws in order to maintain the privileged nature of privileged communications while using or supervising the inmates' use of Provider's patented MailGuard Legal™ Mail system.
72. Customer and Provider will mutually agree if and when to make this service available.

Digital MailGuard Legal™

73. Provider will provide at no cost to Customer its Digital MailGuard Legal™ system for use by the inmates of the Customer's jail facility and their attorneys. Provider is exclusively responsible for providing all hardware, software, and all networking requirements needed for operation of the system.
74. Provider shall facilitate the electronic delivery of digital copies of legal mail sent from attorneys who have been pre-approved by Customer directly to inmates through Provider's proprietary digitally encrypted process.
75. The encrypted digital files can only be opened by inmates using Provider's system with Provider's proprietary authentication protocols. Once authenticated, inmates can view digitally transmitted legal mail and legal documents via Provider's SmartTablet™ devices using a separate login process.
76. Customer acknowledges and understands that Provider's MailGuard Legal™ system does not allow for any digital copies of legal mail to be monitored, reviewed, accessed, or investigated.
77. Customer agrees to adhere to all applicable laws in order to maintain the privileged nature of privileged communications while supervising the inmates' use of Provider's Digital MailGuard Legal™ system.

Video Visitation



78. Provider will provide at no cost to Customer a video visitation system for the inmates of Customer's Facility. Provider is responsible for providing all hardware (i.e. tablets and kiosks), the software (including the operating systems and application software), and all networking requirements needed for operation of the system. Provider shall have the exclusive right over any other vendor to provide the services of and to derive revenue from remote video visitation.

79. Provider's video visitation system will be accessible to inmates via Provider's SmartTablets™ and/or SmartKiosks™.

80. Provider will provision and deploy SmartKiosks™ following a technical review and walkthrough of the facility and in consultation with the Customer.

81. Provider will provide at no cost to Customer the labor, hardware, and software needed for the continued operating, maintaining, and networking of the video visitation system, including any public or lobby kiosks.

82. Provider is responsible for all the costs and future costs associated with any modification, reconfiguration, or upgrade of the video visitation system at Customer's Facility. These costs do not include the costs of the actual electrical power.

83. Provider will provide Customer with the capability of monitoring the video visitations, except those visitations deemed to be privileged under law between attorney and client. Provider will maintain a record of all parties of the video visitation system for a period of seven (7) years from the time of the visitation.

84. Friends and Family can access and purchase and schedule the video visitation sessions via the Smartjailmail.com website.

85. Remote video visitation will be made available to inmates 7 days a week, in keeping with the same hours and time availability of the inmate phone system.

86. Remote video visitation will be billed at \$0.14 per minute, subject to change by mutual agreement of the parties. Onsite video visitation shall be provided at no charge.

87. Provider agrees to provide each incarcerated person two, 30-minutes video visits each week at no charge.

Grievances, General and Medical Requests

88. Provider will additionally deploy applications for Inmate electronic general and medical requests as well as well as electronic grievance forms, available via SmartTablet™ devices.



89. Provider's system presents Inmates with a list of available forms, and once a form has been selected and submitted, it is automatically routed to the appropriate person or department for processing.

Law Library

90. Provider shall provide Inmates with access to a law library at no cost, via the SmartTablet™ devices. The law library provides access to Federal and State statutes and case law, as well as a legal dictionary, practice manual, and other legal aides to assist inmates with researching material appropriate for their case.

Electronic Entertainment & Education

91. Provider shall provide access to its SmartEntertainment™ platform via the SmartTablet™ for streaming content at a rate of three credits / three cents (\$0.03) per minute.

92. Provider will provide access to its extensive SmartEd™ educational platform via SmartTablet™ devices, where a full suite of Educational Programs can be made available.

Commissary Hosting and Integration

93. At Customer's request, Provider will host Customer's commissary vendor's menu on Provider's system, at no cost to Customer.

94. At Customer's request, Provider will integrate with Customer's jail management system (JMS) at no cost to Customer.

Customer Training

95. Upon the installation of Provider's system, Provider shall provide Customer staff with extensive training for all services and features available to Customer pursuant to this Agreement. In addition, Provider will provide refresher or new training sessions to Customer staff as necessary, including as new staff is hired by Customer.

Service Commitments

96. Remote Monitoring. Provider's system is monitored in real time and most issues are detected and resolved automatically. To the extent an issue arises that is undetected by Provider's remote monitoring system, Customer shall promptly notify Provider by way of Provider's service ticket system or other agreed-upon means.

97. Onsite Service. Provider will have a regional service technician that will be available for any on-site service needs that may arise which are not able to be addressed remotely.



Modifications

98. The parties may make changes to the financial terms, type of equipment, or deployment models set forth herein as needed upon written mutual agreement of the parties.

Indemnification

100. To the fullest extent permitted by law, Provider shall defend at its own expense, indemnify, and hold harmless County and its officers, agents, employees, volunteers, and representatives from and against any and all liability, claims, actions, proceedings, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred in connection therewith, brought for or on account of personal injury (including death) or damage to property, arising from all acts or omissions of Provider or its officers, agents, employees, volunteers, providers and subproviders in providing services under this Agreement, excluding, however, such liability, claims, actions, losses, injuries, damages or expenses to the extent arising from the active or sole negligence or willful misconduct of County. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement.

Compliance with County Policies

99. Provider shall comply, and require its employees and subproviders to comply, with the following policies, copies of which are available on County's website at <https://www.countyofnapa.org/771/Purchasing> and are hereby incorporated by reference.

Venue

100. This Agreement is made and entered into in Napa County, California. Venue for any legal action in state court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa. Venue for any legal action in federal court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Northern District of California.

Notices.

101. All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval, or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this



paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

COUNTY

PROVIDER

Susan Kuss
2210 Napa-Vallejo Hwy
Napa, CA 94558

Jon Logan
10491 72nd St.
Seminole, FL 33777

Mandatory Non-binding Mediation

103. If a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, the parties agree to attempt to settle the dispute in an amicable manner, using mandatory mediation through Judicial Arbitration and Mediation Services (JAMS) or any other neutral organization agreed to by the parties. To initiate mediation, the initiating party shall send written notice of its request for mediation to the opposing party. Mediation is mandatory before either party may initiate litigation or have recourse in a court of law.

Confidentiality of Services.

104. All services performed by Provider and any subconsultants, including but not limited to all drafts, data, information, correspondence, proposals, reports of any nature, estimates compiled or composed by Provider, are for the sole use of County. Neither the documents nor their contents shall be released by Provider or any subconsultant to any third party without the prior written consent of County. Contractor shall not disclose records or other information provided by County under this Agreement to any third party, except as necessary to perform the scope of services, unless the records or information: (1) were publicly known, or otherwise known to Provider, at the time it was disclosed to Provider by County; (2) subsequently become publicly known through no act or omission of Provider; or (3) otherwise become known to Provider other than through disclosure by County.

Independent Contractors.

105. Provider and its subproviders, if any, are independent contractors and not agents of County. Any provisions of this Agreement that may appear to give County any right to direct Provider concerning the details of performing the scope of services, or to exercise any control over such performance, shall mean only that Provider shall follow the direction of County concerning the end results of the performance.

Survival of Obligations.

106. All indemnifications, warranties, guarantees and other obligations that by their nature involve performance after the early termination or expiration of this Agreement or after completion and acceptance of the scope of services, shall survive the early termination or expiration of this Agreement. Such obligations include, but are not limited to, paragraphs 1.4



(Correction of Deficient Services), 9.1 (Access to Records/Retention), 9.8 (Confidentiality of Services), and Article VIII (Dispute Resolution). Obligations related to insurance or indemnity shall continue in full force and effect after the date of early termination or expiration, but only with regard to acts or omissions that occurred during the term of the Agreement.

Severability

107. Should any provision of this Agreement be held invalid or illegal by a court of competent jurisdiction, such invalidity or illegality shall not invalidate the whole of this Agreement, but rather, the Agreement shall be construed as if it did not contain the invalid or illegal provision, and the rights and obligations of the parties shall be construed and enforced accordingly, except to the extent that enforcement of this Agreement without the invalidated provision would materially and adversely impact either or both parties' consideration for entering into this Agreement.

No Waivers

108. Any failure by either party to insist upon the strict performance by the other of any obligation of this Agreement, or any failure to exercise any right or remedy for a breach of any term or condition of this Agreement, shall not constitute a waiver of any such failure to perform or breach of any term or condition. A waiver must be express and in writing. The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

No Assignments.

109. Provider may not assign the obligations under this Agreement, nor any monies due or to become due under this Agreement, without County's prior written approval. Any assignment in violation of this paragraph shall constitute a default and is grounds for termination of this Agreement at County's sole discretion. In no event shall any putative assignment create a contractual relationship between County and any putative assignee.

Successors in Interest

110. All rights and obligations created by this Agreement shall be in force and effect whether or not any parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any party's successor in interest.

Entirety of Contract

111. This Agreement, including any documents expressly incorporated by reference whether or not attached hereto, constitutes the entire agreement between the parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings, and negotiations, whether written or oral, among the parties with respect to the subject matter hereof.



Counterparts

112. This Agreement may be executed in counterparts, which when taken together, shall constitute a single signed original as though all parties had executed the same page.

IN WITNESS WHEREOF, this Agreement is executed by County, acting by and through the Chair of the Board of Supervisors, and by Provider through its duly authorized officer(s).

Smart Communications Holding LLC

By [Signature]
Jon Logan, CEO

Smart Communications Holding LLC

By [Signature]
David Gann, General Counsel

NAPA COUNTY, a political subdivision of the State of California

By _____
Anne Cottrell, Chair of the Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By <u>[Signature]</u> Deputy County Counsel</p> <p>Date: <u>2/19/2025</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>_____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
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EXHIBIT A INSURANCE REQUIREMENTS

C.1 Workers Compensation Insurance. To the extent required by law during the term of this Agreement, Provider shall provide workers compensation insurance for the performance of any of Provider's duties under this Agreement as required by the State of California with statutory limits, and employer's liability insurance with a limit of no less than TWO MILLION DOLLARS (\$2,000,000) per accident for bodily injury or disease, all with a waiver of subrogation. Provider shall provide County with certification of all such coverages upon request by County's Risk Manager.

C.2 Liability Insurance. Provider shall obtain and maintain in full force and effect during the term of this Agreement the following occurrence-based liability insurance coverages, issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better, or equivalent self-insurance:

C.2.1 General Liability. Commercial general liability (CGL) insurance coverage (personal injury and property damage) of not less than TWO MILLION DOLLARS (\$2,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of Provider or any officer, agent, or employee of Provider under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

C.2.2 Professional Liability/Errors and Omissions. Professional liability (or errors and omissions) insurance for all activities of Provider arising out of or in connection with this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000) per claim. If the coverage includes an aggregate limit the aggregate limit shall be no less than twice the per occurrence limit.

C.2.3 Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with Provider's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. Coverage shall be business auto insurance coverage using Insurance Services Office (ISO) form number CA 0001 06 92 including symbol 1 (any Auto) or the exact equivalent. If Provider owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the General Liability Insurance described in paragraph C.2.1, above. If Provider or Provider's employees, officers, or agents will use personal automobiles in any way in the performance of this Agreement, Provider shall provide evidence of personal auto liability coverage for each such person upon request.

C.3 Certificates of Coverage. All insurance coverages referenced in paragraph C.2, above, shall be evidenced by one or more certificates of coverage or, with the consent of County's Risk Manager, demonstrated by other evidence of coverage acceptable to County's Risk Manager,



which shall be filed by Provider with the County Department administering this Agreement prior to commencement of the Scope of Services.

C.3.1 Notice of Cancellation. The certificate(s) or other evidence of coverage shall reference this Agreement by its County number or title and department; shall be kept current during the term of this Agreement; shall provide that County shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium.

C.3.2 Multiple Insureds. The certificate(s) shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.




C.3.3 Waiver of Subrogation and Additional Insured Endorsements. For the commercial general liability insurance coverage referenced in subparagraph C.2.1 and, for the comprehensive automobile liability insurance coverage referenced in subparagraph C.2.3 where the vehicles are covered by a commercial policy rather than a personal policy, Provider shall also file with the evidence of coverage an endorsement from the insurance provider naming Napa County, its officers, employees, agents, and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, Provider shall file an endorsement waiving subrogation with the evidence of coverage.

C.3.4 Additional Requirements. The certificate or other evidence of coverage shall provide that if the same policy applies to activities of Provider not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of County shall pertain only to liability for activities of Provider under this Agreement, and that the insurance provided is primary coverage to County with respect to any insurance or self-insurance programs maintained by County. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

C.4 Copies of Policies. Upon request by County's Risk Manager, Provider shall provide or arrange for the insurer to provide within thirty (30) days of the request, certified copies of the actual insurance policies or relevant portions thereof.

C.5 Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by County's Risk Manager, which approval shall not be denied unless the County's Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and the risks of liability associated with the activities required of Provider by this Agreement. At the option of



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and upon request by County's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects County, its officers, employees, agents, and volunteers or Provider shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.



EXHIBIT B CALIFORNIA PREVAILING WAGE REQUIREMENTS

Pursuant to California Labor Code sections 1720 and 1771, construction, alteration, demolition, installation, repair and maintenance work performed under this Agreement is “public works” subject to State prevailing wage laws. State prevailing wage laws require certain provisions be included in all contracts for public works. Contractor and any subcontractors shall comply with State prevailing wage laws including but not limited to the requirements listed below.

D.1 Payment of Prevailing Wages. Contractor and all subcontractors shall ensure that all workers who perform work under this Agreement are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including but not limited to inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the post-construction phases of construction, including but not limited to all cleanup work at the jobsite.

D.1.1 Copies of such prevailing rate of per diem wages are on file at the Napa County Public Works Department and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Contractor and all subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

D.1.2 The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Agreement. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Agreement in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Agreement, each successive predetermined wage rate shall apply to this Agreement on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Agreement, such wage rate shall apply to the balance of the Agreement.

D.2 Penalties for Violations. Contractor and all subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This is in addition to any other applicable penalties allowed under the California Labor Code.



D.3 Payroll Records. Contractor shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require all subcontractors to also comply with section 1776 to the extent they are performing public works. Contractor and all subcontractors shall furnish records specified in section 1776 on a monthly basis directly to the Labor Commissioner in the manner required by California Labor Code section 1771.4. Contractor and all subcontractors shall also furnish the records to County at County's request. Contractor shall ensure its subProviders and subcontractors prepare and submit payroll records to the DIR and County as required by this paragraph.

D.3.1 If Contractor and any subcontractors are exempt from the DIR registration requirement pursuant to paragraph D.9.3 below, then Contractor and any subcontractors are not required to furnish payroll records directly to the Labor Commissioner but shall retain the records for at least three years after completion of the work, pursuant to California Labor Code section 1771.4(a)(4).

D.3.2 County may require Contractor and its subcontractors to prepare and submit records specified in section 1776 to County and the Labor Commissioner on a weekly basis, at no additional cost to County.

D.4 Apprentices. Contractor and all subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices on public works projects. Contractor is responsible for compliance for all apprenticeable occupations pursuant to California Labor Code section 1777.5(n), and could be penalized for violations of its subcontractors pursuant to California Labor Code section 1777.7.

D.5 Working Hours. Contractor and all subcontractors shall comply with California Labor Code sections 1810 through 1815. Contractor and all subcontractors shall restrict the time of service of any worker on a public works project to eight hours during any one calendar day and forty hours during any one calendar week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay. Violations are subject to penalties of \$25 per worker per day pursuant to California Labor Code section 1813.

D.6 Required Provisions for Subcontracts. Contractor shall include, at a minimum, a copy of the following provisions in any contract they enter into with a subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1813, and 1815.

D.7 Labor Code Section 1861 Certification. In accordance with California Labor Code section 3700, Contractor is required to secure the payment of compensation of its employees. By signing the Agreement to which this is an exhibit, Contractor certifies that:

"I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and



I will comply with such provisions before commencing the performance of the work of this contract.”

D.8 Compliance Monitoring and Enforcement. This project is subject to compliance monitoring and enforcement by the DIR. County must withhold contract payments from Contractor as directed by the DIR, pursuant to California Labor Code section 1727.

D.9 Registration Requirements. Contractor and any subcontractors shall not engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5.

D.9.1 By signing the Agreement to which this is an Exhibit, Contractor is certifying that it has verified that all subcontractors used on this project are registered with the DIR in compliance with California Labor Code sections 1771.1 and 1725.5.

D.9.2 County may ask Contractor for the most current list of subcontractors (regardless of tier), along with their DIR registration numbers, utilized on this project at any time during performance of this Agreement, and Contractor shall provide the list within ten (10) working days of County’s request.

D.9.3 The registration requirement does not apply on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work, or on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work, pursuant to California Labor Code sections 1725.5(f) and 1771.1(n).

D.10 Stop Order. Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of California Labor Code sections 1725.5 or 1771.1, the Labor Commissioner must issue and serve a stop order prohibiting the use of the unregistered contractor or subcontractor on all public works until the unregistered contractor or subcontractor is registered. Failure to observe a stop order is a m



Master Services Agreement

This Master Services Agreement (this “Agreement”) is by and between Napa County Department of Corrections, hereinafter referred to as “Customer,” and Smart Communications Holding, LLC and/or its designated subsidiary or assignee, with principal offices located at 10491 72nd Street, Seminole, FL 33777, hereinafter referred to as “Provider.”

This Agreement supersedes any and all other agreements made between the Parties, written, oral or otherwise.

Whereas, Customer desires that Provider install an inmate communications system(s) and provide inmate communications and maintenance services according to the terms and conditions in this Agreement, and according to the Schedules, which are incorporated by reference into this Agreement, and;

Whereas, Provider agrees to install the inmate communications system(s) and provide inmate communications and maintenance services according to the terms and conditions in this Agreement, and according to the Schedules, which are incorporated by reference into this Agreement.

Now therefore, in consideration of the mutual covenants and agreements hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. Systems. This Agreement specifies the general terms and conditions under which Provider will perform certain inmate related services and systems (the “System(s)”) for the Customer. Additional terms and conditions with respect to the Systems will be specified in the Schedules entered into by the Parties and attached (the “Schedules”). The Schedules are incorporated into this Agreement and are subject to the terms and conditions of this Agreement. In the event of any conflict between this Agreement and a Schedule, the terms of the Schedule shall govern.

2. Use of Systems and Exclusivity. In exchange for Provider installing, providing, and supporting its System and inmate communication services throughout Customer’s Facility at no cost to Customer, Customer acknowledges, agrees, and grants to Provider the exclusive right to provide such services in Customer’s Facility. Provider shall have the exclusive right to install, maintain, and derive revenue from and through Provider’s inmate communication services and Systems including, without limitation, the related hardware and software, located in the Customer Facility as identified on the Schedules. Customer agrees that it will not resell, grant, or provide access to Provider’s services or System, directly or indirectly, to any third party unless agreed to by Provider in a separate written agreement. During and subject to the terms and conditions of this Agreement, and upon the going live of each respective service, Provider shall be the sole and exclusive provider of inmate telephone services (ITS) and all inmate communication services available on or provided by a tablet or kiosk system as set forth in the accompanying Schedule(s), including but not limited to video and data services (e.g., electronic video visitation, electronic messaging and email, texting, photo delivery, and electronic entertainment) and inmate software applications (e.g., electronic delivery of routine postal mail, electronic medical or general requests, electronic grievances, electronic law library, and electronic education).

3. Hardware and Software License. For the term of this Agreement, Provider grants Customer a non-exclusive, non-transferable license to access and use certain proprietary computer software and hardware products and materials in connection with our inmate services and Systems. Provider will provide free of charge all Software upgrades, modifications, and updates. All hardware upgrades, modifications and updates will be done at Provider’s sole discretion.

Provider makes no representation or warranty as to the legality of monitoring or archiving such communications and activities.

4. Ownership. Smart Communications is and shall remain the owner of the equipment provided by Smart Communications whether or not physically attached to real estate.

5. License Restrictions: The Software is to be used solely in connection with Provider’s Services by Customer and inmates housed at Customer’s Facility in connection with Provider’s services and Systems. The Hardware is to be



used solely by inmates housed at Customer's Facility to access Provider's services and Systems. Unless and only to the extent that this Agreement expressly permits, Customer must not:

- i. permit any parent, subsidiary, affiliated entity or third party to use the Hardware or Software;
- ii. rent, lease, lend, assign, sublicense, encumber or otherwise transfer or attempt to transfer the Hardware or Software or any portion thereof;
- iii. alter, create derivatives of, or modify the Hardware or Software in any way, or allow a third party to do so;
- iv. connect the Software or Hardware to any third-party products or services that were not approved of in writing by Provider;
- v. distribute or otherwise make the Hardware or Software or any password, key, or other access code for the Software available to any third party;
- vi. reverse engineer, decompile, or disassemble the Hardware or Software, or allow a third party to do so;
- vii. defeat or work around any access restrictions or encryption in the Software, or allow a third party to do so;
- viii. remove, minimize, block, or modify any titles, logos, trademarks, copyright and patent notices, digital watermarks, disclaimers, or other legal notices that are included in the Software, whether or not they are Provider's or a third party's;

6. Title. Provider shall have and retain all rights, title, and interest in the products and services provided to Customer. The Hardware, Software, Systems, networking, and cabling, including all modifications and updates of Software, shall at all times remain the sole and exclusive property of the Provider. Any trade secrets, methodology and processes of our services and Systems constitute proprietary information of Provider, regardless of any part or portion thereof is the subject of a valid copyright or patent. During the term of this agreement and for the time period(s) as stated in the Schedule for Systems, we will provide you access to the records.

7. Term. This Agreement shall commence on the effective date and shall continue for a period of three (3) years from the date of system going live. After the original term, this Agreement shall optionally renew for up to two additional terms of one (1) year in length each upon written notice by Customer or as otherwise agreed by the Parties. The terms and conditions herein shall govern for so long as Provider continues to provide its system and services.

8. Limitation of Liability. To the maximum extent permitted by applicable law, Provider shall indemnify and hold harmless Customer, his agents, servants and employees from any and all claims, actions, lawsuits, judgments or liabilities of any kind whatsoever deriving from negligent acts or omissions of the Provider, its agents or sub-contractors. Each Party agrees that it shall be solely responsible for the negligent or wrongful acts of its own employees. However, nothing contained herein shall constitute a waiver by Customer of its sovereign immunity or other applicable State Statutes. Notwithstanding anything to the contrary in this Agreement or Schedules, in no event will Provider's liabilities under this agreement, whether under contract law, tort law, warranty, or otherwise, exceed the total amount of revenue received by Provider pursuant to this agreement, during the twelve (12) month period before the date the claim arose.

9. Confidential Information and Non-Disclosure. The parties acknowledge that in their performance of their duties hereunder either party may communicate to the other (or its designees) certain confidential and proprietary information, including without limitation information concerning the party's services and know-how, technology, techniques, or business or marketing plans related thereto (collectively, the "Confidential Information") all of which are confidential and proprietary to, and trade secrets of, the disclosing party (the "Disclosing Party"). As a condition to the receipt of the Confidential Information from the Disclosing Party, the receiving party (the "Receiving Party") shall, at all times during and after the term of this Agreement (i) not disclose in any manner, directly or indirectly, to any third party any portion of the Confidential Information; (ii) not use the Confidential Information in any fashion except to perform its duties hereunder or with the Disclosing Party's express prior written consent; (iii) disclose the Confidential Information, in whole or in part, only to employees and agents who need to have access thereto for the Receiving Party's internal business purposes; (iv) take all necessary steps to ensure that its employees and agents are informed of and comply with the confidentiality restrictions contained in this Agreement; and (v) take all necessary precautions to protect the confidentiality of the Confidential Information received hereunder and exercise at least the



same degree of care in safeguarding the Confidential Information as it would with its own confidential information, and in no event shall apply less than a reasonable standard of care to prevent disclosure. The Receiving Party shall promptly notify the Disclosing Party of any unauthorized disclosure or use of the Confidential Information. The Receiving Party shall cooperate and assist the Disclosing Party in preventing or remedying any such unauthorized use or disclosure. The term "Confidential Information" does not include, and the obligations and undertakings set out in this section do not apply to: (a) Information which now is in the public domain or publicly known at the time of disclosure or hereafter comes into the public domain or generally known through no fault of the Receiving Party, otherwise than by reason of breach of this Agreement; (b) Information the disclosure of which is requested or required by law, regulation, court order or a regulatory agency, provided that, prompt notice of such requested disclosure shall be given to the Disclosing Party, if legally permitted, so that Disclosing Party may seek appropriate remedy to prevent such disclosure or waive compliance with the provisions of this Agreement and the Receiving Party, its directors, officers, employees, agents and advisers shall reasonably co-operate with the Disclosing Party, at the Disclosing Party's sole cost and expense, if the Disclosing Party elects to challenge the validity of such requirement and/or take such steps as the Disclosing Party may reasonably require to avoid or limit such disclosure; (c) Information that was previously known to the Receiving Party free of any obligation of confidentiality; (d) Information that is independently developed by the Receiving Party without reference to or use of the Confidential Information; or (e) Information that is disclosed to the Receiving Party by a third party not under or in violation of, as the case may be, any confidentiality undertaking to the Disclosing Party. Subsections (a) through (e) of this paragraph notwithstanding, the parties agree that the technology behind the Providers Services and Systems is Confidential Information and is a trade secret of Provider.

10. Default and Termination. If either party defaults in the performance of any obligation under this agreement, then the non-defaulting Party must give written notice to the defaulting Party specifically describing the nature of default and clearly notifying the defaulting party that the written notice is being provided pursuant to this provision. The defaulting Party shall have thirty (30) days after receipt of notice of default to cure. If it is not reasonable to cure the default within 30 days, then the right to cure period shall be extended to a reasonable cure period as long as the defaulting Party has made good faith attempts to cure the default. Upon termination of this Agreement, Provider shall remove all hardware and software Systems except for the cabling and conduit which shall become the property of the Customer. Provider shall have the right to immediately terminate this Agreement if Customer breaches the Confidentiality or Non-Disclosure provisions of this Agreement.

11. Insurance. Provider shall maintain General Liability Insurance including but not limited to bodily injury, property damage and personal injury with limits of not less than \$1,000,000 combined single limit covering all work performed under this contract. Provider shall maintain automobile insurance including bodily injury and property damage including all vehicles owned, leased, hired and non-owned vehicles with limits of not less than \$1,000,000 combined single limit covering all work performed under this contract. Provider shall provide Worker's Compensation Insurance, on behalf of all employees who are to provide a service under this contract, as required by applicable law, and Employers Liability with limits of not less than \$100,000 per employee per accident. Customer agrees to furnish to Provider timely written notice of any claim, demand, or cause of action made or brought against Customer or where Provider is listed as a Co-Defendant arising out of or relating to the Systems and Services we provide to you.

12. Employees. Provider represents that it has, or will secure at its own expense, all personnel required in performing its obligations under this Agreement. All of the services required hereunder will be performed by the Provider or under its supervision and all personnel engaged in the work shall be fully qualified to perform such services. Provider and any subcontractors used in the performance of the responsibilities listed herein must maintain a drug-free workplace policy. Customer acknowledges that Provider is an independent contractor and nothing in this Agreement is intended nor shall be construed to create an agency relationship, and employer/employee relationship, a joint venture relationship or any other relationship allowing Customer to exercise control or discretion over the manner by which Provider performs hereunder. Provider expressly agrees that it shall be solely responsible for supervising its employees, that it shall comply with all rules, regulations, orders, standards and interpretations promulgated pursuant to the OSHA Act of 1970, including but not limited to training, recordkeeping, providing personal protective equipment, lock/tag out procedures, material safety data sheets and labeling. Provider certifies that neither it nor any subcontractors used to accomplish its obligations hereunder, shall employ unauthorized aliens. Provider certifies that in accordance with the provisions of Title VII of the 1968 Civil Rights Act as amended by the Equal Employment



Opportunity Act of 1972 and Executive Order 11914, that neither it nor any subcontractors used to accomplish its obligations hereunder discriminate on the basis of race, color, sex, religion, age, national origin or disability in their employment practices.

Miscellaneous

13. Warranty Against Contingent Fees. Provider warrants that no person or selling agency has been employed or retained to solicit this contract upon an agreement of understanding for commission, percentage, brokerage or contingency, except bona fide employees or selling agents maintained by the Provider for the purpose of securing business.

14. Subcontracts. Provider shall be allowed to use subcontractors for the purpose of completing the provisions of this Agreement.

15. Provider Personnel. All Provider personnel being permitted to work in the Customer Jail Facility will be subject to a security/background check by the Office of the Sheriff.

16. Provider Cooperation. Provider shall, at all times observe and comply with all Federal, State, and local municipal laws, ordinances, rules and regulations in any way affecting the Agreement. The Provider shall maintain regular communications with Customer, or its designees, and shall actively cooperate in all matters pertaining to this Agreement.

17. Public Information. Neither the Provider nor the Customer shall publish any findings based on data obtained from the operation of this agreement without the prior consent of the other party, whose written consent shall not be unreasonably withheld.

18. Permits and Licenses. All permits and licenses required by Federal, State, local laws, rules, and regulations necessary for the implementation of the work undertaken by the Provider pursuant to the Agreement shall be served and paid for by the Provider. It is the responsibility of the Provider to have and maintain the appropriate certificate(s) valid for work to be performed and valid for the jurisdiction in which the work is to be performed for all persons working on the job for whom a certificate is required.

19. Third-party Rights. The rights, obligations and duties contained in this Agreement shall exist exclusively between the Parties. The Parties expressly agree and intend that they alone shall have the exclusive rights to seek legal or equitable enforcement, remedy, injunctive relief or to bring a breach of Agreement action. The Parties do not intend to create, nor shall this Agreement be construed to create in any other individual or entity the status of a third-party beneficiary.

20. Public Entity Crime. Provider confirms its understanding that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any state or of the United States and involving antitrust, fraud, bribery, collusion, racketeering, conspiracy, or material misrepresentation. Provider hereby certifies that neither its officers, directors, executives, partners, employees, members, nor agents who are active in the management of Contractor have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

21. Waiver of Breach. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision hereof.

22. Cooperative Contract. This contract may be used cooperatively with other agencies, for the procurement of Provider's services under like or similar terms as set forth herein, or as negotiated depending on an agency's specific needs.



23. Compliance with Laws. Provider shall comply with all Federal, State and local laws, rules, and regulations applicable to the services or payments for services under this Agreement.

24. Governing Law. For any dispute arising hereunder, the Parties mutually consent to the jurisdiction of and agree that any litigation brought shall be in courts serving Hillsborough County, Florida and governed by the laws of the state of Florida.

25. Attorney Fees. In the event of litigation concerning this Agreement, the Parties shall each be responsible for their own attorney's fees and costs.

26. Completeness of Agreement. This Agreement, together with any additional or supplementary Schedules or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the Parties hereto. This Agreement may be amended or revised only in writing and signed by all the parties.

27. Force Majeure. Provider will not be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder for any reason beyond its control, including without limitations, strikes, inmate disturbances, failure of Customer to provide proper security services, acts of God, civil or military authority, acts of public enemy, war, terrorism, accidents, fires, explosions, earthquakes, floods, or any similar cause beyond the reasonable control of either Party.

28. Assignment. Provider may assign this Agreement or any interest herein at any time to any parent, successor, or subsidiary with prior written notice to Customer.

29. Severability. In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement which shall remain in full force and effect and enforceable in accordance with its terms.

30. Matters to be Disregarded. The titles of the several sections, subsections and paragraphs set for in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

31. Interpretation. The language in this Agreement is to be construed according to its plain meaning and not strictly for or against either party. The parties have reviewed this Agreement and no ambiguities are known to exist; however, to the extent any ambiguity is later discovered, any rule that such ambiguity is to be resolved for or against either party does not apply.

32. Notices. Any notices, demands, payments or reports required by this Agreement shall be in writing and sufficient if sent by the parties hereto via registered or certified United States mail, postage prepaid, to the notice addresses noted below the Parties signatures on the signature page.

33. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same Agreement. Any signature page of any such counterpart, or any telecopy or other electronic facsimile thereof, may be attached or appended to any other counterpart to complete a fully executed counterpart of this Agreement, and any telecopy or other electronic transmission of a signature shall be deemed an original and shall bind the party who made such signature.

34. Authority. Each Party represents and warrants that it has the authority to enter into this Agreement, and that the individual signing on its behalf likewise has authority to do so.

35. Cooperation in Transition. Customer shall send all appropriate notices in a timely manner in order to ensure transition to Provider can occur at the appropriate time.