

**First Amendment to  
Agreement for Inmate Telephone Services System  
Between  
Telmate LLC and Vanderburgh County**

**THIS FIRST AMENDMENT** (hereinafter "Amendment") is made and entered into on May 9<sup>th</sup>, 2016 ("Effective Date") by and between **Vanderburgh County Sheriff's Office** ("Customer"), with a business address at 3500 North Harlan Avenue, Evansville, Indiana 47711, and **Telmate LLC**. ("Telmate"), with its principal place of business at 655 Montgomery Street 18<sup>th</sup> Floor, San Francisco, California 94111. Customer and Telmate may herein be collectively referred to as the "Parties" or individually as a "Party."

**Recitals**

*Whereas*, Customer and Telmate entered into an Agreement for Inmate Telephone Services System dated September 15, 2015 ("Agreement"), whereby Telmate was obligated to perform certain inmate telephone services at Customer's Facility(s);

*Whereas*, Customer and Telmate entered into a Memorandum of Understanding on September 1, 2015 ("MOU"), whereby Customer agreed to allow Telmate to rent out wall space and wiring within Customer's facility(s);

*Whereas*, the Parties wish to further modify certain terms in the Agreement and MOU following recent changes imposed by the Federal Communications Commission ("FCC"), and to continue the remaining terms in full force and effect.

*Now therefore*, intending to be bound, the Parties hereto agree as follows:

1. Section 8 of the Agreement, "Commissions," is hereby deleted in its entirety, retitled as "Facility Support Fees and Payments," and replaced with the following:
  - a. Facility Support Fees. On or before June 20, 2016, Telmate will implement a system to collect a facility support fee of six cents (\$0.06) per minute on specific telephony calls serviced by Telmate. The facility support fee will be added on a per minute basis for Local, IntraLATA, InterLATA, and other applicable call types designated by Telmate. Additionally, the Facility Support Fee shall be added to each voicemail call. Such facility support fees will be collected by Telmate and remitted to Customer without deductions.
  - b. Technology Grant. In addition to the Facility Support Fee, Telmate shall provide the Vanderburgh County Sheriff's Department, Technology and Equipment Fund a monthly technology grant in the amount of fourteen thousand dollars (\$14,000). A data report shall accompany each monthly grant payment. The payment shall be payable on the 30<sup>th</sup> of each month ("Payment Date") for the preceding month's data volume and shall be made payable to Vanderburgh County 3500 North Harlan Avenue, Evansville, Indiana 47711.

- c. Non-Video Visitation Inmate Tablet Use. Telmate will provide Customer a monthly payment equal to twenty-five percent (25%) of Telmate's the gross revenue derived from its exclusive non-video visitation Tablet and messaging services, contingent upon a minimum of eighty percent (80%) of Customer's inmates having reasonable access to the Tablets.
  - d. Upon ten (10) days from the receipt of notice from Telmate to Customer, any or all facility support fees or payments under this section may be modified or terminated by mutual agreement if Telmate determines such fees or payments are impermissible under federal, state or local laws.
2. The Calling Rates chart under the Inmate Telephone Call Rates section in Exhibit A of the Agreement, "Rates and Fees," is hereby deleted in its entirety and replaced with the following:
  - i. The call rate for all Non-Interstate Prepaid Calls will be \$0.18 per minute.
  - ii. The call rate for all Non-Interstate Collect Calls will be \$0.18 per minute.
  - iii. The call rate for Interstate Prepaid Calls will be \$0.21 per minute.
  - iv. The call rate for Interstate Collect Calls will be \$0.25 per minute.
  - v. The call rate for International Call will be \$0.75 per minute.
3. The Deposit Fees chart in Exhibit A of the Agreement, "Rates and Fees" is hereby deleted in its entirety and replaced with the following:
  - i. The fees for Cash Prepaid Deposit via Kiosk will be \$3.00 per transaction.
  - ii. The fees for Credit Prepaid Deposit via Kiosk will be \$3.00 per transaction.
  - iii. The fees for Live Operator Assisted Prepaid Deposits will be \$5.95 per transaction.
  - iv. The fees for Automated Toll Free Prepaid Deposits will be \$3.00 per transaction.
  - v. The fees for Paper Billing will be \$2.00 per transaction.
  - vi. The fees for Quick Connect Call will be \$7.95 fee + \$2.00 connection charge per call.
  - vii. The fee per Voicemail will be \$1.25 per call.
4. Positive Call Acceptance. Recipients of telephonic calls from Customer facility(s) utilizing Telmate's VoIP platform will be given the opportunity to individually accept the telephonic call, or in combination, the telephonic call and subsequent communications.
5. Length of Call. Telmate will determine all maximum call lengths at Customer's facility(s), by mutual agreement with the customer.
6. Regulatory Changes. The Parties acknowledge that the terms of the Agreement are governed by federal, state, and local laws that are subject to change on occasion. Telmate shall provide Customer with notice of any such changes in the law upon which time the Parties will amend the Agreement as needed to comply with all such changes in the law.

The Parties agree that neither will be required to comply with a term in the Agreement that is rendered unlawful by a future change in the law.

7. **Ownership of Inmate Trust Fund.** Customer confirms the Parties' existing understanding that Telmate acts as Customer's agent for the purpose of accepting, on behalf of Customer, deposits to an inmate's trust/commissary account at Customer. Any and all deposits made to an inmate's trust/commissary account at Customer through Telmate's system shall be deemed received by Customer as if made directly to Customer and shall be credited to the respective inmate's trust/commissary account upon receipt by Telmate. Customer shall have sole control and managerial power over any and all funds deposited into an inmate's trust/commissary account.
8. **Tablet Agreement.** Telmate is engaged in the business of providing correction grade Internet services, including without limitation the provision of wireless devices, internet access, broadband services, online and offline digital entertainment, education, training, and counseling, digital media access, messaging, and photo and other media sharing ("Services") through secure application platforms ("Tablets") to correctional facilities for use by inmates. Customer hereby grants to Telmate the exclusive permission and right to provide, implement, maintain, and derive revenue from the use of the Tablets and Services by inmates in the Facility during the Term, by mutual agreement with the customer. Telmate will determine the fees to be charged to inmates for use of the Tablets and Services, by mutual agreement with the customer.
9. **Tablet Ownership and Specifications.** The Tablets shall at all times remain the sole and exclusive property of Telmate. Telmate shall determine the number and placement of Tablets to be provided at the Facility based on the findings of a site survey of the Facility conducted by Telmate. Telmate shall select the brand, type, and other specifications of the Tablets and may replace, upgrade, or substitute the Tablets at any time during the Term with the permission of the Facility for security purposes.
10. **Maintenance of Tablets.**
  - a. **Telmate's Obligations.** During the Term of this Agreement, Telmate shall have the exclusive right and access to maintain, adjust, remove, disconnect, repair, replace, or alter the Tablets. Customer shall permit employees or contractors of Telmate access to the Facility and the Tablets at least once per week in order to provide such service, repair, and maintenance on the Tablets. Customer understands and agrees that the Tablets will not be available for use by inmates during such times that they are being repaired and/or maintained. Upon termination of this Agreement, Telmate shall have the right to enter the Facility to remove the Tablets.
  - b. **Customer's Obligations.** Customer shall distribute the Tablets to inmates according to its established protocol and procedures. Customer shall exercise reasonable care to prevent foreseeable damage or destruction of the Tablets. Customer shall notify Telmate of any misuse, destruction, damage, loss or vandalism to the Tablets as soon as possible. Customer or its agents shall not (i) alter, maintain, repair, enhance, disassemble, decompile, reverse engineer or otherwise modify the Tablets or any software provided thereon, (ii) connect the Tablets to any software or products not

provided and approved by Telmate, or (iii) allow any third party to do any of the above. Customer shall permit employees or contractors of Telmate reasonable access in order to provide such service, repair, and maintenance on Equipment. Customer shall have no obligations or liability to Telmate with respect to the Tablets except as set forth herein.

11. Acknowledgement of Services by Customer. During the Term, Telmate will provide its full suite of Services to inmates via the Tablets. Customer acknowledges that Telmate has informed Customer of the Services that will be available on the Tablets, including but not limited to the software and web sites that inmates will be able to access from the Tablets. Customer expressly agrees and assents to the accessibility of such Services on the Tablets. If Customer wishes to modify the Services available on the Tablets, Customer shall provide such request to Telmate in writing, upon receipt of which Telmate shall have three (3) months to make any such modifications. If at any time during the Term Customer restricts Telmate from offering the Services on the Tablets, Telmate reserves the right to cease operation of the Tablets at the Facility and remove the Tablets and any related equipment from the Facility without penalty by providing thirty (30) days written notice to Customer. Customer further acknowledges and agrees that it is Telmate's sole customer under this Agreement, and that no inmate or other third party is a party to or intended beneficiary of this Agreement.
12. Except as otherwise provided herein, all terms and conditions of the Agreement and MOU shall stay in full force and effect.

**CUSTOMER**

**TELMATE**

Sign: D Wedding  
Name: David Wedding  
Title: Sheriff  
Date: 11-09-16

Sign: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_