



## CONTRACT

(state revenue contract with an individual, business, non-profit, or government entity of another state or country and from which the state receives monetary compensation)

<b>Begin Date</b> October 1, 2018	<b>End Date</b> December 31, 2019	<b>Agency Tracking #</b> 32901-31177	<b>Edison ID</b> 58987
<b>Procuring Party Legal Entity Name</b> Global Tel*Link Corporation			<b>Procuring Party Registration ID</b> 92861
<b>Service Caption</b> Revenue contract for Inmate Telephone System Services			
<b>Ownership/Control</b> <input type="checkbox"/> Minority Business Enterprise (MBE): <input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Woman Business Enterprise (WBE) <input type="checkbox"/> Service-Disabled Veteran Enterprise (SDVBE) <input type="checkbox"/> Disabled Owned Businesses (DSBE) <input type="checkbox"/> Small Business Enterprise (SBE): \$10,000,000.00 averaged over a three (3) year period or employs no more than ninety-nine (99) employees. <input type="checkbox"/> Government <input checked="" type="checkbox"/> Non-Minority/Disadvantaged <input type="checkbox"/> Other:			
<b>Selection Method &amp; Process Summary (mark the correct response to confirm the associated summary)</b> <input type="checkbox"/> RFP The procurement process was completed in accordance with the approved RFP document and associated regulations. <input type="checkbox"/> Competitive Negotiation The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria. <input type="checkbox"/> Alternative Competitive Method The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria. <input checked="" type="checkbox"/> Non-Competitive Negotiation The non-competitive procuring party selection was completed as approved, and the procurement process included a negotiation of best possible terms & price. <input type="checkbox"/> Other The procuring party selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with <u>all</u> interested parties or <u>all</u> parties in a predetermined "class."			
<b>Agency Contact &amp; Telephone #</b>		<b>CPO USE - RV</b>	

**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
TENNESSEE DEPARTMENT OF CORRECTION  
AND  
GLOBAL TEL\*LINK CORPORATION**

This Contract, by and between the State of Tennessee, Department of Correction, hereinafter referred to as the "State" and Global Tel\*Link Corporation, hereinafter referred to as the "Procuring Party," is for the provision of Inmate Telephone System Services, as further defined in the "SCOPE OF SERVICES."

The Procuring Party is a For-Profit Corporation.  
Procuring Party Place of Incorporation or Organization: Idaho

**A. SCOPE OF SERVICES:**

- A.1. The purpose of the Inmate Telephone System (ITS) is to provide inmates in Department of Correction (DOC) facilities with outbound telephone services and to provide DOC with the means to ensure the proper and lawful use of the system by inmates. Availability of services is important to correctional facility operations. It is considered by DOC to be a critical service element with stringent availability and quality of service objectives. The future system will consist of the following elements:
- a. Processing of outbound calls only. Inbound calls of any type will not be processed.
  - b. Capabilities at each facility to provide outbound direct-dial debit and collect calling services in a secure fashion.
  - c. Out-clearing services for rating, billing and collection of collect calls.
  - d. Provision of a centralized management facility in Nashville, Tennessee.
  - e. Provision of a person(s) for system administration, training and support.
  - f. Provision of repair and maintenance staff for inmate phone equipment and stations.
  - g. Phone sets to be supplied and phased in by the Procuring Party.
  - h. Continue to provide the proof of concept (POC) at the Tennessee Prison for Women (TPW) for wireless inmate calling (collect, pre-paid, debit and free) on a correctional grade device. Upon final approval by the State, the State may provide written approval to the Procuring Party to implement the wireless inmate calling solution at other State Prison Facilities.
  - i. Continue to provide the POC for educational tablets demonstrating the viability of the education tablets at the State's Training Academy. The educational tablets shall include, but is not limited to, correctional grade tablets devices, complete learning management system, full service and maintenance, and all associated licenses. The State shall not incur any costs for the educational tablet deployment. In the event the actual costs associated with the education tablet deployment are less than those previously identified by the State, the Procuring Party shall remit the difference to the State.
- A.2. The State's goal is to maximize revenue back to the State while providing a technologically advanced system for the provision of inmate telephone service.
- A.3. Centralized personnel are needed to assist or perform the following tasks:
- a. Inmate Telephone Called Number Validation

- b. System Administration
  - c. Report Generation
  - d. Help Desk
  - e. Trouble Report Management, Tracking, and Resolution
  - f. Personnel Training
  - g. Bad Debt Management
  - h. The person(s) appointed to this position by the Procuring Party as part of this Contract will be responsible for assisting institutions in the efficient operation of the system.
- A.4. In the event the Procuring Party upgrades the current inmate telephone system or the State contracts with a new Inmate Telephone Service Provider (ITSP) as the result of an Request for Proposals (RFP) process, Procuring Party shall work with the State, and the new ITSP, if applicable, to ensure an orderly transition of services and responsibilities under the Agreement and to ensure the continuity of the services required by the State.
- A.5. Procuring Party Responsibilities:
- a. Installation and management of equipment for inmate calling to include maintenance expenses and the cost of the installation and transition to any new equipment if applicable. Program management of new equipment installation and service implementation for institutions in need of replacement equipment, additions to the current system, or for equipment to be added to existing institutions.
  - b. Provision of rating information using industry acceptable rates, with discounts dictated by the State and their installation into the system so debit and collect calls can be real time rated and classified into the proper rating categories based on the called numbers. The State will have the right to approve the rates to be used and expects them to be comparable to those used by the three (3) major long distance carriers and local exchange carriers (LECs) for IntraLATA calling (as referenced in Attachment Two).
  - c. Rating and out processing of collect calls to billing agencies. The State will consider various proposals and associated risks as to how this might be accomplished. If the Procuring Party bids a fixed commission rate, the Procuring Party becomes totally responsible for collections. If the State prefers a higher guaranteed commission, the State/Doc will consider sharing of risk and rewards on unbillable/bad debt management.
  - d. Establishment and management of a Help Desk at a State location in Nashville, Tennessee during normal business hours which will advise remote institutions on use of the system, take trouble reports and trouble ticket response times same as indicated in writing to the State and manage them to resolution, working with remote institutions to validate numbers to be called by inmates and input them into the system, train personnel on use of the complete system and act as system manager.
  - e. Production of monthly statistical reports to the State/DOC on uncompleted and completed call volumes in various categories, billed revenue in various categories (debt and collect), bad debt calls sorted in various ways (inmate, called number, etc.), traffic usage by time of day, telephone, groups of telephones etc.
  - f. Production of specific reports as needed to be dictated by the State/DOC.

- g. Training of State/DOC personnel in the use of equipment as required. This will be done centrally in Nashville, Tennessee.
- h. Co-develop with the State/DOC, an overall quality assurance plan, as part of project management planning and maintain the plan throughout the Contract.
- i. Provision of documentation to the State/DOC in ten (10) copies to explain operation of the system in detail and in addition, necessary information documentation at each user site for proper operation of the system.
- j. Provision of a Project Manager during any equipment additions and a complete transition, with the name of said project manager being provided to the State in writing.
- k. Procuring Party shall provide a full upgrade to Procuring Party's inmate telephone system, by providing additional software and feature upgrades as currently deployed at State facilities as they become available, at no cost to and at the sole discretion of the State, throughout the term of the Contract. Procuring Party shall complete the full upgrade to the inmate telephone system. The full upgrade shall include, but not be limited to, newly available software, inmate calling capabilities, line configurations, and features and functionalities. Procuring Party shall perform extensive testing on all system changes or software upgrades prior to introducing to the State. The State will not be a beta test for any software upgrades to the inmate telephone system.

**A.6. State Responsibilities:**

- a. Provide the State/DOC Statement of Requirements to Procuring Party for new installations or installation of new equipment at existing institutions.
- b. Review work documents submitted in response to Statements of Requirements.
- c. Issue Work Order authorization for the installation of new telephone equipment.
- d. Manage all premise wiring for the ITS.
- e. Work with the Procuring Party in the development and production of monthly statistical reports required by the State/DOC.
- f. Work with the Procuring Party in specifying day-to-day reports that might be needed based on individual situations.
- g. Work with the Procuring Party and subcontractors to monitor unbillable and uncollectible revenue and take actions to reduce risk. (Bad debt is ultimately the Procuring Party's responsibility, and commissions will be paid on billed revenue – NOT collected revenue. See Section C.1.)
- h. Work with the Procuring Party and carriers in establishing the most cost-effective method of completing inmate calls.
- i. Periodically review quality control practices and recommend or require changes in those practices as needed.
- j. The State is responsible for all related facilities; such as to:
  - 1) Provide adequate electrical service for installed equipment including utility outlets and existing Uninterruptible Power Supply (UPS) equipment;

- 2) Provide adequate HVAC for facilities as dictated by installed equipment;
  - 3) Provide adequate lighting for equipment areas;
  - 4) Provide adequate security and protection of installed equipment; and
  - 5) Space for the Help Desk and associated personnel.
- k. The State will issue all work orders in written form, except for stop work orders that can be verbally issued by the State Project Manager (to be followed by written direction). The Project Manager assigned by the State for this project is:

Randolph Hicks  
Tennessee Department of Correction  
6406 Centennial Blvd.  
Nashville, TN 37209  
Telephone: (615) 350-1930  
Fax: (615)253-6359

**B. TERM OF CONTRACT:**

- B.1. This Contract shall be effective on October 1, 2018 ("Effective Date"), and extend for a period of fifteen (15) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Procuring Party prior to the Effective Date.
- B.2. **Renewal Options.** This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to two (2) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.
- B.3. **Term Extension.** The State may extend the Term an additional period of time, not to exceed one hundred-eighty (180) days beyond the expiration date of this Contract, under the same terms and conditions, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

**C. PAYMENT TERMS AND CONDITIONS:**

Effective October 1, 2018, through December 31, 2019, Procuring Party shall pay the State a commission equal to three hundred and forty thousand dollars (\$340,000.00) per month ("Monthly Commission") for each full month. The Monthly Commission will be prorated for any month which is not a full month. For the avoidance of doubt, effective October 1, 2018, through December 31, 2019, the Monthly Commission payment supersedes any previous contract amendments between the parties wherein a commission was calculated as a percentage of revenue generated through the inmate telephone system provided by Procuring Party, and those such provisions are null and void and without any further effect. The State reserves the right to direct Procuring Party to remit payments to other State partners to further agency initiatives. For the further avoidance of doubt, Procuring Party will provide monthly reports indicating call minutes of usage, summarized by facility location, and other detail as agreed with State.

**D. STANDARD TERMS AND CONDITIONS:**

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and

regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

D.3. Termination for Convenience. The Contract may be terminated by either party by giving written notice to the other, at least thirty (30) days before the effective date of termination. Said termination shall not be deemed a breach of contract by the State. Should the State exercise this provision, the State shall have no liability to the Procuring Party. Should either the State or the Procuring Party exercise this provision, the Procuring Party shall be required to compensate the State for satisfactory, authorized services completed as of the termination date and shall have no liability to the State except for those units of service which can be effectively used by the Procuring Party. The final decision, as to what these units of service are, shall be determined by the State. In the event of disagreement, the Procuring Party may file a claim with the Tennessee Claims Commission in order to seek redress.

Upon such termination, the Procuring Party shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.4. Termination for Cause. If either party fails to properly perform or fulfill its obligations under this Contract in a timely or proper manner or violates any terms of this Contract, the other party shall have the right to immediately terminate the Contract. The Procuring Party shall compensate the State for completed services.

D.5. Subcontracting. Neither the Procuring Party nor the State shall assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the other. If such subcontracts are approved, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings).

D.6. Conflicts of Interest. The Procuring Party warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractors, or consultant to the Procuring Party in connection with any work contemplated or performed relative to this Contract other than as required by Section A. of this Contract.

D.7. Nondiscrimination. The State and the Procuring Party hereby agree, warrant, and assure that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the State or the Procuring Party on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law.

D.8. Records. The Procuring Party shall maintain documentation for its transactions with the State under this Contract. The books, records, and documents of the Procuring Party, insofar as they relate to work performed or money paid under this Contract, shall be maintained for a period of five (5) full years from the final date of this Contract and shall be subject to audit, at any reasonable time and upon reasonable notice, by the state agency, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

- D.9. **Strict Performance.** Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.10. **Independent Procuring Party.** The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- Claims against the State of Tennessee, or its employees, or injury damages expenses or attorney's fees are heard and determined by the Tennessee Claims Commission or the Tennessee Board of Claims in the manner prescribed by law (*Tennessee Code Annotated*, Sections 9-8-101 *et seq.*, 9-8-301 *et seq.*, and 9-8-401 *et seq.*). Damages recoverable against the State of Tennessee shall be expressly limited to claims paid by the Board of Claims or the Claims Commission pursuant to *Tennessee Code Annotated*, Section 9-8-301 *et seq.*
- D.11. **State Liability.** The State shall have no liability except as specifically provided in this Contract.
- D.12. **Force Majeure.** The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.13. **State and Federal Compliance.** The Procuring Party and the State shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.14. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Procuring Party agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Procuring Party acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.15. **Completeness.** This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.16. **Severability.** If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.17. **Headings.** Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.18. **HIPAA Compliance.** The State and Procuring Party shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for

Economic and Clinical Health (HITECH) Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules").

- a. Procuring Party warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
- b. Procuring Party warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Procuring Party will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Procuring Party in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver such information without entering into a business associate agreement or signing another such document.
- d. The Procuring Party will indemnify the State and hold it harmless for any violation by the Procuring Party or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

**E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:  
Randolph Hicks  
Tennessee Department of Correction  
6406 Centennial Blvd.  
Nashville, TN 37209  
[Randolph.E.Hicks@tn.gov](mailto:Randolph.E.Hicks@tn.gov)  
Telephone # (615)350-1930  
FAX # (615) 253-6359

The Procuring Party:  
President  
Global Tel\*Link Corporation  
12021 Sunset Hills Road  
Reston, VA 20190  
Telephone # (251) 479-4500  
FAX # (703) 435-0980



All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3 Tennessee Department of Revenue Registration. The Procuring Party shall be registered with the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract.
- E.4. Debarment and Suspension. The Procuring Party certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
  - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
  - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
  - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Procuring Party shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.

- E.5. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Procuring Party by the State or acquired by the Procuring Party on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Procuring Party to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Procuring Party's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Procuring Party of this Contract; previously possessed by the Procuring Party without written obligations to the State to protect it; acquired by the Procuring Party without written restrictions against disclosure from a third party which, to the Procuring Party's knowledge, is free to disclose the information; independently developed by the Procuring Party without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Procuring Party to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Procuring Party due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.6. State Furnished Property. The Procuring Party shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Procuring Party's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Procuring Party shall be responsible to the State for the residual value of the property at the time of loss.
- E.7. Prohibited Advertising. The Procuring Party shall not refer to this Contract or the Procuring Party's relationship with the State hereunder in commercial advertising in such a manner as to state or imply an endorsement by the State. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.
- E.8. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Procuring Party's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments; and
  - b. this Contract with any attachments or exhibits

- E.9. Hold Harmless. The Procuring Party agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Procuring Party, its employees, or any person acting for or on its or their behalf relating to this Contract. The Procuring Party further agrees it shall be liable for the reasonable cost of attorneys for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Procuring Party of its obligations under this Section to the extent that the Procuring Party can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Procuring Party, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

- E.10. Breach. A party shall be deemed to have breached the Contract if any of the following occurs:
- failure to perform in accordance with any term or provision of the Contract;
  - partial performance of any term or provision of the Contract;
  - any act prohibited or restricted by the Contract, or
  - violation of any warranty.

For purposes of this Contract, these items shall hereinafter be referred to as a "Breach."

- a. Procuring Party Breach— The State shall notify Procuring Party in writing of a Breach.
  - (1) In event of a Breach by Procuring Party, the State shall have available the remedy of Actual Damages and any other remedy available at law or equity.
  - (2) Liquidated Damages— In the event of a Breach, the State may assess Liquidated Damages. The State shall notify the Procuring Party of amounts to be assessed as Liquidated Damages. The parties agree that due to the complicated nature of

the Procuring Party's obligations under this Contract it would be difficult to specifically designate a monetary amount for a Breach by Procuring Party as said amounts are likely to be uncertain and not easily proven. Procuring Party hereby represents and covenants it has carefully reviewed the Liquidated Damages contained in Attachment One and agree that said amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of Breach, and are a reasonable estimate of the damages that would occur from a Breach. It is hereby agreed between the parties that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Procuring Party and do not include any injury or damage sustained by a third party. The Procuring Party agrees that the liquidated damage amount is in addition to any amounts Procuring Party may owe the State pursuant to the indemnity provision or other section of this Contract.

The State may continue to withhold the Liquidated Damages or a portion thereof until the Procuring Party cures the Breach, the State exercises its option to declare a Partial Default, or the State terminates the Contract. The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity; provided, however, Procuring Party shall receive a credit for said Liquidated Damages previously withheld except in the event of a Partial Default.

- (3) Partial Default— In the event of a Breach, the State may declare a Partial Default. In which case, the State shall provide the Procuring Party written notice of: (1) the date which Procuring Party shall terminate providing the service associated with the Breach; and (2) the date the State will begin to provide the service associated with the Breach. Notwithstanding the foregoing, the State may revise the time periods contained in the notice written to the Procuring Party.

In the event the State declares a Partial Default, the State may withhold, together with any other damages associated with the Breach, from the amounts due the Procuring Party the greater of: (1) amounts which would be paid the Procuring Party to provide the defaulted service; or (2) the cost to the State of providing the defaulted service, whether said service is provided by the State or a third party. To determine the amount the Procuring Party is being paid for any particular service, the Department shall be entitled to receive within five (5) days any requested material from Procuring Party. The State shall make the final and binding determination of said amount.

The State may assess Liquidated Damages against the Procuring Party for any failure to perform which ultimately results in a Partial Default with said Liquidated Damages to cease when said Partial Default is effective. Upon Partial Default, the Procuring Party shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount. Procuring Party agrees to cooperate fully with the State in the event a Partial Default is taken.

- (4) Contract Termination— In the event of a Breach, the State may terminate the Contract immediately or in stages. The Procuring Party shall be notified of the termination in writing by the State. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that the Procuring Party shall cease operations under this Contract in stages. In the event of a termination, the State may withhold any amounts which may be due

Procuring Party without waiver of any other remedy or damages available to the State at law or at equity. The Procuring Party shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State which exceed the amount the State would have paid Procuring Party under this Contract. Procuring Party agrees to cooperate with the State in the event of a Contract Termination or Partial Takeover.

- b. State Breach— In the event of a Breach of Contract by the State, the Procuring Party shall notify the State in writing within 30 days of any Breach of Contract by the State. Said notice shall contain a description of the Breach. Failure by the Procuring Party to provide said written notice shall operate as an absolute waiver by the Procuring Party of the State's Breach. In no event shall any Breach on the part of the State excuse the Procuring Party from full performance under this Contract. In the event of Breach by the State, the Procuring Party may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Procuring Party to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Procuring Party to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Procuring Party.

E.11. Prison Rape Elimination Act Compliance.

Procuring Party must comply with the Prison Rape Elimination Act (PREA) of 2003 (Federal Law 42 U.S.C 15601 et seq.) with all applicable Federal PREA standards, and with all State policies and standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within facilities/programs/offices owned, operated, or contracted.

IN WITNESS WHEREOF,

GLOBAL TEL\*LINK CORPORATION:



September 10, 2018


\_\_\_\_\_  
PROCURING PARTY SIGNATURE

\_\_\_\_\_  
DATE

John Pitsenberger, Chief Financial Officer

\_\_\_\_\_  
PRINTED NAME AND TITLE OF PROCURING PARTY SIGNATORY (above)

TENNESSEE DEPARTMENT OF CORRECTION:



SEPTEMBER 10, 2018

\_\_\_\_\_  
TONY PARKER, COMMISSIONER

\_\_\_\_\_  
DATE

## LIQUIDATED DAMAGES

For purposes of determining liquidated damages for all outages, deficiencies are classified as follows:

Deficiency	Definition	Liquidated Damages
I	Single Telephone Station Outage	\$10 per day, one week after reporting
II	Major Site Outage outside an Act of God. Major Site Outage is defined as twenty-five percent (25%) or more of the telephone service at an institution is not available, or if any of the call processing, call tracking, or billing service is impaired.	\$200 per hour, five hours after reporting
III	Complete System Outage outside an Act of God.	\$3,000 per hour, three hours after reporting

Circuit problems are controlled by phone company not inmate phone provider. Hardware replacement may require one (1) to two (2) days to complete.

Attachment Two

Calling Rates		
Call Type	Collect, Pre-Paid Collect and Debit	
	Per Minute Rate	Cost of a 15-Minute Call
Local	\$0.07	\$1.05
Intralata (In-State)	\$0.11	\$1.65
Interlata (In-State)	\$0.16	\$2.40
Interstate (Out-of-State)	\$0.21	\$3.15

Pre-Paid Collect Funding Fees		
Fee	Fee Description	Amount
Pre-Paid Collect	Pre-Paid Collect Funding Fee charged for funding a Pre-Paid Collect account via IVR, website, etc.	\$3.00 per deposit
Pre-Paid Collect	Pre-Paid Collect Funding Fee charged for funding a Pre-Paid Collect account via live agent.	\$5.95 per deposit
Pre-Paid Collect	Pre-Paid Collect Funding Fee charged for funding a Pre-Paid Collect via check or money order.	\$0.00 per deposit
Pre-Paid Collect	Fees charged to end-users for funding a Pre-Paid Collect account via-third parties (i.e. Money Gram, Western Union, etc.).	\$0.00 100% Pass Through; No Mark-up Allowed
Universal Service Fund	Universal Service Fund is applied to only interstate and international calls and is changed quarterly by the FCC.	18.2%* *adjusted quarterly
Applicable Taxes	All required taxes are allowed.	Vary 100% Pass Through; No Mark-up Allowed
All Other Fees	Fees or charges applied by Contractor or a third party for calls processed through the inmate telephone system from the Correctional Facilities.	\$0.00