

INMATE PHONE SYSTEM CONTRACT

The parties to this contract are the State of North Dakota, acting through its Department of Information Technology in cooperation with the Office of Management and Budget, State Procurement Office (STATE), and Evercom Systems, Inc., a Delaware company and wholly owned subsidiary of SECURUS Technologies, Inc. (CONTRACTOR);

1. SCOPE OF SERVICES

CONTRACTOR, in exchange for the exclusive right and license to install, maintain, and derive revenue from the Applications through our inmate systems (including, without limitation, the related hardware and software) (the "System") located in and around the inmate confinement facilities identified on the Schedules (the "Facilities"), agrees to provide the following services:

A commission based coinless pay phone service to the inmate population of the prisons as outlined in the STATE'S RFP #112-0902.

2. TERM OF CONTRACT

The term of this contract is for a period of 60 months, commencing on the 1st day of November, 2009, and terminating on the 31st day of October, 2014.

3. MERGER AND MODIFICATION, CONFLICT IN DOCUMENTS

This Contract, including the following documents, constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this Contract. This contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties. Notwithstanding anything herein to the contrary, in the event of any inconsistency or conflict among the documents making up this Contract, the documents must control in this order of precedence:

- a) The terms of this Contract as may be amended;
- b) STATE's Solicitation Amendment #4 to Request for Proposal ("RFP") number 112-0902 dated March 5, 2009;
- c) STATE's Solicitation Amendment #3 to Request for Proposal ("RFP") number 112-0902 dated March 2, 2009;
- d) STATE's Solicitation Amendment #2 to Request for Proposal ("RFP") number 112-0902 dated February 20, 2009;
- e) STATE's Solicitation Amendment #1 to Request for Proposal ("RFP") number 112-0902 dated February 10, 2009;
- f) STATE's Request for Proposal ("RFP") number 112-0902, dated February 9, 2009;
- g) CONTRACTOR's proposal dated March 12, 2009 in response to RFP number 112-0902.

4. COOPERATIVE PURCHASING

CONTRACTOR agrees that this contract is a cooperative purchasing contract established pursuant to North Dakota Century Code Section 54-44.4-13. This contract is an open-ended cooperative purchasing contract made available to other governmental entities. "Open-ended" means that other government entities may participate in this contract, but participation by other governmental entities is not mandated or guaranteed. "Government entities" means counties, cities, townships, institutions under the jurisdiction of the State Board of Higher Education,

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public primary and secondary educational entities, governmental boards and commissions, and nonprofit entities established on behalf of public entities for the purpose of purchasing. Notwithstanding anything to the contrary herein, the parties understand and agree that such cooperative purchasing shall be with respect to calling rates. CONTRACTOR shall have the opportunity to review and analyze a particular Government entity's needs before the CONTRACTOR accepts the Facility. CONTRACTOR'S analysis will consist of multiple factors including Facility size, location, and average daily population. If the CONTRACTOR accepts the Facility, the analyzed data will be used to customize appropriate services, licenses, equipment and pricing structures tailored to fit the demands of the entity.

5. TERMINATION OF CONTRACT

- a. Termination without cause.** This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' written notice.
- b. Termination for lack of funding or authority.** STATE may terminate this contract effective upon delivery of written notice to CONTRACTOR, or on any later date stated in the notice, under any of the following conditions:
 - 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.
 - 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
 - 3) If any license, permit or certificate required by law or rule, or by the terms of this contract, is for any reason denied, revoked, suspended or not renewed.
 - 4) Termination of this contract under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.
- c. Termination for cause.** STATE by written notice of default to CONTRACTOR may terminate the whole or any part of this contract:
 - 1) If CONTRACTOR fails to provide services required by this contract within the time specified or any extension agreed to by STATE; or
 - 2) If CONTRACTOR fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms.

The rights and remedies of STATE provided in the above clause related to defaults by CONTRACTOR are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

6. FORCE MAJEURE

CONTRACTOR will not be held responsible for delay or default caused by fire, riot, acts of God or war if the event is beyond CONTRACTOR's reasonable control and CONTRACTOR gives notice to STATE immediately upon occurrence of the event causing the delay or default or which is reasonably expected to cause a delay or default.

7. RENEWAL

This contract will not automatically renew. STATE will provide written notice to CONTRACTOR of its intent to renew this contract at least sixty days before the scheduled termination date.

8. SEVERABILITY

If any term of this contract is declared to be illegal or unenforceable by a court having jurisdiction, the validity of the remaining terms will not be affected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.

9. ASSIGNMENT AND SUBCONTRACTS

CONTRACTOR may not assign or otherwise transfer or delegate any right or duty without STATE's express written consent. However, CONTRACTOR may enter into subcontracts provided that any such subcontract acknowledges the binding nature of this contract and incorporates this contract, including any attachments. CONTRACTOR is solely responsible for the performance of any subcontractor. CONTRACTOR will not have the authority to contract for or incur obligations on behalf of STATE.

10. NOTICE

All notices or other communications required under this contract must be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

ND Information Technology Department	SECURUS Technologies, Inc.
Dan Sipes	GENERAL COUNSEL
600 E Boulevard Ave, Dept. 112	14651 Dallas Parkway, Suite 600
Bismarck, ND 58505-0100	Dallas, TX 75254

11. APPLICABLE LAW AND VENUE

This contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be brought and solely litigated in the District Court of Burleigh County, North Dakota.

12. SPOILIATION – NOTICE OF POTENTIAL CLAIMS

CONTRACTOR shall promptly notify STATE of all potential claims that arise or result from this contract. CONTRACTOR shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to STATE the opportunity to review and inspect the evidence, including the scene of an accident.

13. INDEMNITY

Contractor agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. This obligation to defend, indemnify, and hold harmless does not extend to professional liability claims arising from professional errors and omissions. The legal defense provided by Contractor to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Contractor also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred if the State prevails in an action against Contractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Further:

- a. CONTRACTOR, at its own expense, will defend and indemnify STATE against claims that products furnished under this contract infringe a United States patent or copyright or misappropriate trade secrets protected under United States law.
- b. As to any product which is subject to a claim of infringement or misappropriation, CONTRACTOR may (a) obtain the right of continued use of the product for STATE or (b) replace or modify the product to avoid the claim. If neither alternative is available on commercially reasonable terms then, at the request of CONTRACTOR, any applicable Software license and its charges will end, STATE will stop using the product, and will return the product to CONTRACTOR. Upon return of the product, CONTRACTOR will give STATE a credit for the price paid to CONTRACTOR, less a reasonable offset for use and obsolescence.
- c. CONTRACTOR will comply with all applicable federal, state, and local laws, rules, and ordinances at all times in the performance of the contract and conduct its activities so as not to endanger any person or property.

14. INSURANCE

Contractor shall secure and keep in force during the term of this agreement and Contractor shall require all subcontractors, prior to commencement of an agreement between Contractor and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.

- 3) Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this contract.
- 4) Employer's liability or "stop gap" insurance of not less than \$1,000,000 as an endorsement on the workers compensation or commercial general liability insurance.
- 5) Professional errors and omissions, including a three year "tail coverage endorsement," with minimum liability limits of \$1,000,000 per occurrence and in the aggregate.

The insurance coverages listed above must meet the following additional requirements:

- 1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor.
The amount of any deductible or self-retention is subject to approval by the State.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
- 3) The duty to defend, indemnify, and hold harmless the State under this agreement shall not be limited by the insurance required in this agreement.
- 4) The state of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights and coverages of an additional insured under these policies.
- 5) The insurance required in this agreement, through a policy or endorsement, shall include:
 - a. "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the State;
 - b. a provision that the policy and endorsements may not be canceled or modified without thirty days' prior written notice to the undersigned State representative;
 - c. a provision that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08;
 - d. a provision that Contractor's insurance coverage shall be primary (i.e. pay first) as respects any insurance, self-insurance or self-retention maintained by the State and that any insurance, self-insurance or self-retention maintained by the State shall be in excess of the Contractor's insurance and shall not contribute with it;
 - e. cross liability/severability of interest for all policies and endorsements;
 - f. The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary;
 - g. The insolvency or bankruptcy of the insured Contractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Contractor from meeting the retention limit under the policy.
- 6) The Contractor shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
- 7) Failure to provide insurance as required in this agreement is a material breach of contract entitling the State to terminate this agreement immediately.

15. ATTORNEY FEES

In the event a lawsuit is instituted by STATE to obtain performance due of any kind under this contract, and STATE is the prevailing party, CONTRACTOR shall, except when prohibited by N.D.C.C. § 28-26-04, pay STATE's reasonable attorney fees and costs in connection with the lawsuit.

16. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

STATE does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. STATE does not waive any right to a jury trial.

17. CONFIDENTIALITY

Absent a court order, CONTRACTOR agrees not to use or disclose any information it receives from STATE under this contract that STATE has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this contract or as authorized in advance by STATE. Absent a court order, STATE agrees not to disclose any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential and which STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. § 44-04-18. The duty of STATE and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this contract, or any extensions or renewals of it.

18. COMPLIANCE WITH PUBLIC RECORDS LAW

CONTRACTOR understands that, except for disclosures prohibited in Section 16, STATE must disclose to the public upon request any records it receives from CONTRACTOR. CONTRACTOR further understands that any records that are obtained or generated by CONTRACTOR under this contract, except for records that are confidential under Section 16, may, under certain circumstances, be open to the public upon request under the North Dakota open records law. CONTRACTOR agrees to contact STATE immediately upon receiving a request for information under the open records law and to comply with STATE's instructions on how to respond to the request.

19. INDEPENDENT ENTITY

CONTRACTOR is an independent entity under this contract and is not a STATE employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workers' Compensation Act. CONTRACTOR retains sole and absolute discretion in the manner and means of carrying out CONTRACTOR's activities and responsibilities under this contract, except to the extent specified in this contract.

20. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

CONTRACTOR agrees to comply with all applicable laws, rules, regulations and policies, including those relating to nondiscrimination, accessibility and civil rights. CONTRACTOR agrees to timely file all required reports, make required payroll deductions, and timely pay all

taxes and premiums owed, including sales and use taxes and unemployment compensation and workers' compensation premiums. CONTRACTOR shall have and keep current at all times during the term of this contract all licenses and permits required by law.

21. STATE AUDIT

All records, regardless of physical form, and the accounting practices and procedures of CONTRACTOR relevant to this contract are subject to examination by the North Dakota State Auditor or the Auditor's designee. In accordance with Section 29.e of this Agreement, CONTRACTOR will maintain all such records for at least three years following completion of this contract.

22. TAXPAYER ID

CONTRACTOR's federal employer ID number is: 75-2722144.

23. EFFECTIVENESS OF CONTRACT

This contract is not effective until fully executed by both parties.

24. STATE TECHNOLOGY STANDARDS

CONTRACTOR agrees that technology products and services delivered as part of this agreement will comply with STATE's information technology standards. These standards can be found on STATE's web site at <http://www.nd.gov/ea/standards/>.

25. PERSONNEL AND PROJECT MANAGEMENT

- a. CONTRACTOR's Project Manager shall deliver to STATE's Project Manager, weekly/monthly reports of CONTRACTOR's progress on the project and meeting the objective/deliverables as stated in the scope of services. Each report must contain a description of the current status of the project, the tasks on which time was spent, the estimated progress to be made in the next week/month, and the problems encountered, the proposed solutions to them and their effect, if any, on the deliverable schedule.
- b. Unless CONTRACTOR is notified otherwise by STATE, STATE's Project Manager shall carry out STATE's administrative and management functions under this contract, shall be responsible for acceptance of the contract deliverables, and shall provide support and overall direction to CONTRACTOR in producing the contract deliverables.
- c. STATE's working hours are Monday through Friday from 8:00 AM until 5:00 PM (CST or CDT) with one hour for lunch. STATE Project Manager may approve alternate work schedules.
- d. According to STATE policy, STATE personnel will only be obligated to work a forty-hour workweek, Monday through Friday, and will be allowed reasonable vacation, sick or educational absences.
- e. CONTRACTOR's personnel will not be expected to work on state holidays or other mandatory leave days.
- f. CONTRACTOR agrees and understands that STATE's execution of the contract is predicated, in part and among other considerations, on the utilization of the specific individual(s) and/or personnel qualification(s) as identified; primary being Bill Harris. Therefore, CONTRACTOR agrees that no substitution of such specific individuals and/or personnel qualification will be made without the prior written approval of STATE and that such substitution will be made at no additional cost to STATE. CONTRACTOR further agrees that any substitution made pursuant to this paragraph must be of equal or higher

skills, knowledge, and abilities than those personnel originally proposed and that STATE's approval of a substitution will not be construed as an acceptance of the substitution's performance potential. STATE agrees that an approval of a substitution will not be unreasonably withheld. CONTRACTOR shall furnish experienced, qualified Information Technology personnel to participate in the project. The personnel furnished must have the knowledge necessary to complete requirements as defined in the Contract.

- g. CONTRACTOR agrees and understands that STATE's execution of the contract is predicated, in part and among other considerations, on the utilization of the specific individual(s) and/or personnel qualification(s) as identified for administrative duties such as, but not limited to, entering applications and updating phone lists. Upon request by STATE, CONTRACTOR shall replace any CONTRACTOR personnel who STATE determines, in its sole discretion, to be unable to perform the responsibilities of the contract acceptably. E.g. inappropriate or unprofessional personal conduct, professional inabilities, etc.
- h. CONTRACTOR (or STATE at the CONTRACTOR'S expense) shall conduct background investigations on all contracted staff and subcontractors assigned by CONTRACTOR to perform work at the Facilities under this contract, and to the extent allowed by law shall furnish the results of such background investigations to STATE. STATE shall have the right to reject any individual assigned to perform work under this contract if, in its sole discretion, it determines that the results of the background investigation make the individual unacceptable. The background investigations to be performed are:
 - Criminal History, References, Employment,
 - Motor vehicle, Credit, Education,
- i. CONTRACTOR agrees that STATE may require contracted staff and subcontractors assigned by CONTRACTOR to perform work under this contract to submit to a criminal history record check in accordance with N.D.C.C. 54-59-20 and 12-60-24. STATE shall have the right to reject any individual assigned to perform work under this contract if, in its sole discretion, it determines that the results of the criminal history record check make the individual unacceptable.
- j. CONTRACTOR shall assign personnel on a full-time basis. In the event that a work assignment does not justify full-time participation, CONTRACTOR shall assign person on a part-time basis with prior written approval of STATE's Project Manager. However, if the part-time assignments are specified in the contract, no written approval from STATE's Project Manager will be necessary except for substitution of CONTRACTOR personnel.
- k. CONTRACTOR shall warrant that personnel assigned to perform tasks in response to this contract will remain assigned, for the agreed-upon length of time, and will not be replaced or reassigned except by mutual agreement and written notice of STATE. Prior to assignment of personnel, CONTRACTOR shall obtain written approval from STATE for all personnel to be assigned to this project.

26. EQUIPMENT, MATERIALS AND WORKSPACE

- a. CONTRACTOR's assigned contract staff will be on site for the duration of the contract.
- b. On site will be ND State Penitentiary, 3100 Railroad Avenue, Bismarck, ND 58501.
- c. STATE agrees to provide an adequate working space, when required.
- d. Equipment and software for on-site CONTRACTOR personnel is to be provided by CONTRACTOR.
- e. When STATE and CONTRACTOR agree that remote access to systems is required, STATE will provide the necessary remote access security to enable CONTRACTOR access to the appropriate STATE systems.

27. REVIEW, APPROVAL, AND ACCEPTANCE PROCESS

- a. Unless otherwise noted in this contract or agreed upon in writing by both parties, acceptance testing will be performed on-site, on STATE's platform.
- b. Prior to acceptance testing, CONTRACTOR will furnish STATE with documentation of the deliverable item and the expected performance.
- c. The review, approval, and acceptance process for all project deliverables as specified in scope of services will be the responsibility of STATE's Project Manager. The Project Manager will be responsible for ensuring that the approval process follows the proper procedures prior to acceptance of deliverables by STATE. STATE shall apply the following procedures to acceptance of all deliverables:
 - 1) For the life of this contract, STATE has the right to complete a review of any deliverable received from CONTRACTOR and notify CONTRACTOR of STATE's findings; and
 - 2) If the deliverable is unacceptable, CONTRACTOR shall resubmit the deliverable after the appropriate correction or modifications have been made.
- d. The process described above will be repeated until acceptance is obtained, STATE terminates for cause or a waiver is obtained.

28. CHANGE CONTROL PROCESS

- a. CONTRACTOR and STATE will implement a change control process to manage issues and changes during the life of the project. A change request must be in writing to document the potential change.
- b. The change will be reviewed and, if acceptable to STATE, CONTRACTOR will submit to STATE an estimate of the charges and the anticipated changes in the delivery schedule that will result from the proposed change in the scope of work.
- c. CONTRACTOR will continue performing the services in accordance with the original agreement, until the parties agree in writing on the change in the scope of work.
- d. Change orders that involve changes to the scope of services or that result in a requirement for additional project funding will require approval by STATE.
- e. Once both parties approve a change, a change order shall be issued in writing prior to implementation.
- f. All change orders will be logged and tracked.
- g. **Steps for the change control process:**
 - 1) Complete a write-up for the proposed change and submit copies to CONTRACTOR and STATE's Project Managers who will in turn provide to relevant parties for assessment.
 - 2) Record the request in the change control log.
 - 3) Investigate the impact of the proposed change and evaluate the impact of not performing the change.
 - 4) Prepare a response to the proposed change.
 - 5) Retain the original in the project library.
 - 6) CONTRACTOR and STATE agree whether the change should be performed and obtain authorization sign-off of each party of the change request. The appropriate document is created.
- h. **If the change is not accepted:**
 - 1) CONTRACTOR's Project Manager will discuss and document the issue with STATE's Project Manager.
 - 2) The proposed change can be modified and re-submitted or withdrawn if it is agreed to be non-essential. In this case the reasons will be documented.

i. **If the change is accepted:**

- 1) Once the change request has been approved and signed, work may begin, unless the change results in a change to the price, schedule or both. If such is the case, work will not proceed until such time as the document is modified and signed off on by the authorized parties.
 - 2) CONTRACTOR's Project Manager and STATE's Project Manager will adapt project plans to incorporate approved changes.
 - 3) Each change request duly authorized in writing by STATE and agreed to by CONTRACTOR will be deemed incorporated into and part of this contract.
 - 4) Progress on the change requests will be reported at progress meetings or, for those cases where those meetings do not occur, status reports to all pertinent parties will be furnished.
- j. Both CONTRACTOR and STATE must sign off that a change has been completed.
- k. The log will be updated.
- l. The log will be supplied at the progress meetings or, in those cases where those meetings do not occur, the log update information will be included in the status reports to STATE's Project Manager.

29. PAYMENTS

- a. The CONTRACTOR agrees to provide standard monthly commission reports to the STATE by the last day of the month following the end of the previous month. If additional reporting is required, CONTRACTOR and STATE will mutually agree on specifications of additional reporting.
- b. The CONTRACTOR agrees to provide monthly commission checks payable to ND Department of Corrections for an amount equal to forty percent of the gross sales for the period. The form to be submitted with the check, as well as the mailing address, will be supplied to the CONTRACTOR after the execution of the Contract. The commission reports shall be submitted to the STATE via the same method the commission payments are sent to the STATE, or other methods such as direct access to Internet or other databases as mutually agreed upon by the parties.
- c. STATE has tax-exempt status.
- d. No claim for additional services, not specifically provided herein, will be allowed by STATE except to the extent provided by a valid change order or amendment to this contract.
- e. CONTRACTOR shall maintain documentation for all payments made to STATE under this contract. The books, records and documents of CONTRACTOR, as they relate to work performed or money received under this contract, must be maintained for a period of three (3) full years from the date of the final payment, and must be subject to audit, at any reasonable time and upon reasonable notice, by STATE or the State Auditor or the Federal Auditor or their duly appointed representatives.

30. REPRESENTATIONS AND WARRANTIES

CONTRACTOR represents and warrants to STATE that neither CONTRACTOR, in connection with performing the services in performance of this contract, nor the completed product delivered by CONTRACTOR, will infringe any patent, copyright, trademark, trade secret or other proprietary right of any person. CONTRACTOR further represents and warrants to STATE that it will not use any trade secrets or confidential or proprietary information owned by any third party in performing the services related to this contract or in delivery of the completed product. CONTRACTOR further represents and warrants to STATE that neither CONTRACTOR nor any other company or individual performing services pursuant to this contract is under any obligation to assign or give any work done under this contract to any third party.

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto have caused this Agreement to be executed by their duly authorized representatives:

CONTRACTOR

BY: *Robert Pickens*

PRINTED: Robert Pickens

ITS: Chief Marketing Officer

DATE: 5/19/09

STATE OF NORTH DAKOTA, acting through its
Information Technology Department

BY: *Daniel Z. Spal*

ITS: Director - Admin Services

DATE: 5/27/09

STATE OF NORTH DAKOTA, acting through its
OMB State Procurement Office

BY: *Sherry L. Nease*

ITS: State Procurement Manager

DATE: 5-27-09

ATTACHMENT A - SCOPE OF SERVICES

This Scope of Services attachment is between Evercom Systems, Inc., a Delaware corporation and a wholly owned subsidiary of SECURUS Technologies, Inc. ("we" or "CONTRACTOR"), and the State of North Dakota, acting through its Department of Information Technology in cooperation with the Office of Management and Budget, State Procurement Office ("you" or "STATE") and is part of and governed by the Inmate Phone System Contract (the "Agreement") executed by the parties. The terms and conditions of the Agreement are incorporated herein by reference. This Attachment shall be coterminous with the Agreement ("Attachment Effective Date").

Applications. We will provide the following Applications:

CALL MANAGEMENT SERVICE

Secure Call Platform: Secure Call Platform ("SCP") provides, through its centralized net centric, VOIP, digital transmitted system, automatic placement of calls by inmates without the need for conventional live operator services. In addition, SCP provides the capability to (a) monitor and record inmate calls, (b) mark certain numbers as private to disable the monitoring and recording function, (c) automatically limit the duration of each call to a certain period designated by us, (d) maintain call detail records in accordance with our standard practices, (e) automatically shut the System on or off, and (f) allow free calls to the extent required by applicable law. We will be responsible for all billing and collections of inmate calling charges but may contract with third parties to perform such functions. SCP will be provided at the Facilities specified in the chart below.

COMPENSATION:

Collect Calls. We will pay you commission (the "Commission") in the amount of the applicable Collect Commission Percentage (as specified in the chart below) of the applicable revenue base (as specified in the chart below) that we earn through the completion of collect calls placed from the Facilities. Gross Revenues shall mean all gross billed revenues relating to completed collect calls generated by and through the Inmate Telecommunications System. Regulatory required and other items such as federal, state and local charges, taxes and fees, including transaction funding fees, credits, and billing recovery fees are excluded from revenue to the Vendor. We shall remit the Commission for a calendar month to you on or before the 30th day after the end of the calendar month in which the calls were made (the "Payment Date"). All Commission payments shall be final and binding upon you unless we receive written objection within sixty (60) days after the Payment Date. Your payment address is as set forth in the signature block below. You shall notify us in writing at least sixty (60) days prior to a Payment Date of any change in your payment address.

FACILITIES AND RELATED SPECIFICATIONS:

Facility Name and Address	Type of Call Management Service	Collect Commission Percentage	Revenue Base for Calculation of Commission	Payment Address
Site 06124 North Dakota State Hospital 2605 Circle Drive Department 112 Jamestown, ND 58401	SCP	40%	GROSS	North Dakota State Hospital 2605 Circle Drive Department 112 Jamestown, ND 58401
Site 05126 North Dakota Department of Corrections and Rehabilitation – Prison Division 3100 East Railroad Avenue Bismarck, ND 58501	SCP	40%	GROSS	North Dakota State Penitentiary P.O. Box 5521 Bismarck, ND 58506
Site 05127 James River Correctional Center 1310 S 35th Street Bismarck, ND 58402	SCP	40%	GROSS	North Dakota State Penitentiary P.O. Box 5521 Bismarck, ND 58506

CENTRALIZED NET CENTRIC. VOIP, DIGITAL TRANSMITTED CALL MANAGEMENT SYSTEM

DESCRIPTION:

Secure Calling Platform User Interface. We will provide you with the Software regarding the Secure Calling Platform Interface ("S-Gate User Interface") which may be used only on computers and other equipment that meets or exceeds the specifications in the chart below, which we may amend from time to time ("Compatible Equipment"), for a total of licensed users as specified in this Scope of Work. STATE represents that (i) it will be responsible for distributing and assigning licenses to its end users; (ii) it will use the SCP User Interface for lawful purposes and shall not transmit, retransmit or store material in violation of any federal or state laws or regulation; and (iii) it will monitor and ensure that its licensed end users comply as directed herein.

WORKSTATION REQUIREMENTS	
Processor	Personal computer (PC) with a minimum 1 gigahertz (GHz) or processor clock speed recommended; Intel Pentium/Celeron family, or AMD K6/Athlon/Duron family, or compatible processor recommended higher
Operating System	Windows XP
Browser	Microsoft Internet Explorer 6.0 or better
Memory	At least 128 megabytes (MB) of RAM; 256 MB for optimum speed
Drive	CD-ROM or DVD drive
Display	Super VGA (1,024 x 768) or higher-resolution video adapter and monitor
Peripherals	Keyboard and Microsoft Mouse or compatible pointing device
INTERNET ACCESS REQUIREMENTS	
DSL or Cable Modem	Data Rate: 1.5 Megabits downstream and 384Kbits upstream, minimum NOTE: You are required and responsible for obtaining and installing anti-virus and firewall protection software for connectivity to and from the Internet.

SERVICE LEVEL AGREEMENT

We agree to repair and maintain the System in good operating condition (ordinary wear and tear excepted), including, without limitation, furnishing all parts and labor. All such maintenance shall be conducted in accordance with the service levels in Items 1 through 10 below. All such maintenance shall be provided at our sole cost and expense unless necessitated by any misuse of, or destruction, damage, or vandalism to any premises equipment by you (not inmates at the Facilities), in which case, we may recoup the cost of such repair and maintenance through either a Commission deduction or direct invoicing, at our option. You agree to promptly notify us in writing after discovering any misuse of, or destruction, damage, or vandalism to, the said equipment. If any portion of the System is interfaced with other devices or software owned or used by you or a third party, then we shall have no obligation to repair or maintain such other devices or software. This SERVICE LEVEL AGREEMENT does not apply to any provided Openworkstation(s) (see below). For the services contemplated hereunder, we may provide, based upon the facilities requirements, two types of workstations (personal computer/desktop/laptop/terminal): The "Openworkstation" is an open non-secured workstation which permits administrative user rights for facility personnel and allows the facilities an ability to add additional third party software. Ownership of the Openworkstation is transferred to the facility along with a three-year product support plan with the hardware provider. We have no obligation to provide any technical and field support services for an Openworkstation. STATE IS SOLELY RESPONSIBLE FOR THE MAINTENANCE OF ANY OPENWORKSTATION(S)."

1. Outage Report; Technical Support. If either of the following occurs: (a) you experience a System outage or malfunction or (b) the System requires maintenance (each a "System Event"), then you will promptly report the System Event to our Technical Support Department ("Technical Support"). You may contact Technical Support 24 hours a day, seven days a week (except in the event of planned or emergency outages) by telephone at 866-558-2323, by email at TechnicalSupport@Evercom.net, or by facsimile at 800-368-3168. We will provide you commercially reasonable notice, when practical, prior to any Technical Support outage. For your calls to Technical Support, the average monthly call answer time is generally 120 seconds or less.

2. Priority Classifications. Upon receipt of your report of a System Event, Technical Support will classify the System Event as one of the following four priority levels:

"Priority 1"	30% or more of the functionality of the System is adversely affected by the System Event.
"Priority 2"	5% - 29% of the functionality of the System is adversely affected by the System Event.
"Priority 3"	5% or less of the functionality of the System is adversely affected by the System Event. Single and multiple phones related issues.

3. Response Times. After receipt notice of the System Event, we will respond to the System Event within the following time periods:

Priority 1	2 hours
Priority 2	24 hours
Priority 3	72 hours

4. Response Process. In the event of a System Event, where the equipment is located on STATE premises, Technical Support will either initiate remote diagnosis and correction of the System Event or dispatch a field technician to the Facility (in which case the applicable regional dispatcher will contact you with the technician's estimated time of arrival), as necessary. In the event of a System Event occurs in the centralized SCP system, technical support will initiate remote diagnosis and correction of the System Event.

5. Performance of Service. All of our repair and maintenance of the System will be done in a good and workmanlike manner at no cost to you except as may be otherwise set forth in the Agreement. Any requested modification or upgrade to the System that is agreed upon by you and us may be subject to a charge as set forth in the Agreement and will be implemented within the time period agreed by the parties.

6. Escalation Contacts. Your account will be monitored by the applicable Territory Manager and Regional Service Manager. In addition, you may use the following escalation list if our response time exceeds 36 hours: first to the Technical Support Manager or Regional Service Manager, as applicable, then to the Director of Field Services, then to the Executive Director, Service.

7. Notice of Resolution. After receiving internal notification that a Priority 1 System Event has been resolved, a member of our management team will contact you to confirm resolution. For a Priority 2 or 3 System Event, a member of our customer satisfaction team will confirm resolution.

8. Monitoring. We will monitor our back office and validation systems 24 hours a day, seven days a week.

9. Required IGR. You are responsible for providing a dedicated isolated grounded receptacle ("IGR") for use in connection with the primary System. Upon request we will provide you with the specifications for the IGR. If you are unable to or do not provide the IGR, then we will provide the IGR on a time and materials basis at the installer's then-current billing rates, provided that we are not responsible for any delay caused by your failure to provide the IGR.

10. End-User Billing Services and Customer Care. Our Correctional Billing Services department will maintain dedicated customer service representatives to handle end-user issues such as call blocking or unblocking and setting up end-user payment accounts. The customer service representatives will be available during reasonable business hours Monday through Saturday by telephone at 800-844-6591, by email at Support@CorrectionalBillingServices.com, and by facsimile at 800-578-2627. In addition, we will maintain an automated inquiry system on a toll-free customer service phone line that will be available to end-users 24 hours a day, 7 days a week to provide basic information and handle most routine activities. We will also accept payments from end-users by credit card, check, and cash deposit (such as by money order or Western Union transfer).

Equipment. We will initially provide the following equipment/Applications in connection with the services:

Site 06124
North Dakota State Hospital
2605 Circle Drive
Department 112
Jamestown, ND 58401

Core Equipment		
Description	Part #	Quantity
24 Port Switch	90500	1
Ethernet EXTENDER#LR0020A-KIT-R2	C5002	1
Work Station		
Description	Part #	Quantity
GX320 Desktop Small Form Factor	C4107	2
Deskjet Printer	C3042	2
17" LCD Monitor	C3057	2
Workstation/Camrecorder Install Kit (Speakers, Cable, Manual, Printer Cable, Blank CD's)	K010	2
PS2 TO USB ADAPTER	S421	2
Power Cords (1 per Workstation)	S112	2

Site 05126
North Dakota Department of Corrections and Rehabilitation – Prison Division
3100 East Railroad Avenue
Bismarck, ND 58501

Telephone Equipment		
Core Equipment		
Description	Part #	Quantity
Adtran 924	90597	3
24 Port Switch	90500	1
K924 KIT	K924	3
PW 5125 UPS	C3043	1
PW Ethernet Monitor Card	C5089	1
	0	0
Rack Equipment		
Description	Part #	Quantity
KRACK Kit	KRACK	1
Adtran Brackets	90598	3
Work Station		
Description	Part #	Quantity
GX320 Desktop Small Form Factor	C4107	2
Deskjet Printer	C3042	2
17" LCD Monitor	C3057	2
Workstation/Camrecorder Install Kit (Speakers, Cable, Manual, Printer Cable, Blank CD's)	K010	2
PS2 TO USB ADAPTER	S421	2

Power Cords (1 per Workstation)	S112	2
Lightning Protection		
Description	Part #	Quantity
DS25	90386	3
5' M/M Amp	CONS	3
66 Block	CONS	3

Site 05127

James River Correctional Center
1310 S 35th Street
Bismarck, ND 55402

Core Equipment		
Description	Part #	Quantity
Adtran 924	90597	2
24 Port Switch	90500	1
K924 KIT	K924	2
PW 5125 UPS	C3043	1
PW Ethernet Monitor Card	C5089	1
Rack Equipment		
Description	Part #	Quantity
KRACK Kit	KRACK	1
Adtran Brackets	90598	2
Work Station		
Description	Part #	Quantity
GX320 Desktop Small Form Factor	C4107	2
Deskjet Printer	C3042	2
17" LCD Monitor	C3057	2
Workstation/Camrecorder Install Kit (Speakers, Cable, Manual, Printer Cable, Blank CD's)	K010	2
PS2 TO USB ADAPTER	S421	2
Power Cords (1 per Workstation)	S112	2
Lightning Protection		
Description	Part #	Quantity
DS25	90386	2
5' M/M Amp	CONS	2
66 Block	CONS	2

CHANGES IN EQUIPMENT AND SPECIAL REQUIREMENTS OTHER THAN THOSE STATED ABOVE WILL BE PROVIDED AS MUTUALLY AGREED UPON BETWEEN THE STATE AND CONTRACTOR.