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# AMENDMENT TWO

## AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND GLOBAL TEL\*LINK

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**THIS SECOND AMENDMENT** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and GLOBAL TEL\*LINK, hereinafter called "Contractor;"

### **WITNESSETH:**

**WHEREAS**, on November 27, 2007, the County and Contractor entered into an Agreement (Resolution No. 069121) for the provision of inmate telephone services at the County's correctional facilities;

**WHEREAS**, on November 30, 2010 the agreement was amended extending the term 28 months to March 31, 2013, in exchange for a minimum annual guaranteed commission revenue of \$620,000 to the Inmate Welfare Fund for the benefit, education and welfare of inmates; and

**WHEREAS**, both parties now wish to amend the contract by extending the term on a month to month basis not to exceed two months ending May 31, 2013, in exchange for a minimum annual guaranteed commission revenue of \$51,667 per month to the Inmate Welfare Fund for the benefit, education and welfare of inmates:

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:**

1. Section 4. PAYMENTS, of the Agreement is hereby amended to read as follows:

#### **4. PAYMENTS**

- A. **Amount of Payment:** In full consideration of County granting Contractor the exclusive right and license to install and maintain an Inmate Telecommunications System described in this agreement and the Exhibit hereto, Contractor shall pay County as set forth herein, in accordance with the Commission rate for all interlata and intralata (local carrier and long distance) phone calls, plus additional payments, as specified:

**Commission:** Contractor will pay the County a Commission of FIFTY percent (50%) of the GROSS REVENUE BILLED from use of the Equipment through all collect calls placed by inmates within the Facility. No deductions will be made from GROSS REVENUE BILLED for costs associated with fraud, bad debt, line charges, equipment charges, billing and collection charges. The Commission shall be paid to the County on a Quarterly basis, as set forth in Section C below.

**Minimum Commission:** Contractor further guarantees the County of San Mateo a minimum commission:

- November 28, 2007 through November 30, 2010 (1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> years): \$600,000 per year, payable at a minimum of \$150,000 for each quarter; and
- December 1, 2010 through March 31, 2013 (4<sup>th</sup> & 5<sup>th</sup> years): \$620,000 per year, payable at a minimum of \$155,000 for each quarter.
- **April 1, 2013 through May 31, 2013: \$51,667 per month to be prorated based on a 30 day month as needed.**

Contractor also agrees to protect the 50% commission level in the event of rate decreases that would reduce calling revenue by up to 5%. If rate decreases reduce the calling revenue beyond the 5%, Contractor and Sheriff agree negotiate a reduction of the commission level to a level acceptable to both parties, which shall be documented in writing by Contractor to Sheriff. All commission payments shall be final and binding upon the County unless written objection thereto is received by Contractor within sixty (60) days of mailing of the Commission payment to County by Contractor.

Sale of Pre-paid phone cards to County at discounted rate: In addition, the contractor will sell prepaid calling cards to the Sheriff's Office at a discounted rate of FIFTY percent (50%), with the understanding that the cards will be resold to the inmates for use on the contractors platform while the inmates are in custody, and on other providers platforms when the inmate leaves the County Correctional Facility. No commission is payable on the value of pre-paid card usage.

Additional Annual Payments: Contractor will also pay County the sum of \$400,000 as follows; \$150,000 at the time of executing this contract plus \$125,000 for each of the next two years of the contract. These payments are to be made within 15 days of the start of the 2<sup>nd</sup> and 3<sup>rd</sup> years.

Furthermore, Contractor will pay County \$125,000 a year for the extended term expiring March 31, 2013. These payments are to be made within 15 days of the start of the 4<sup>th</sup> and 5<sup>th</sup> years.

**No additional annual payment is required during the month-to-month extension covering April and May 2013.**

Tariff Rate: Initially, the rates charged to inmates or to the persons whom they call collect, which are associated with this Agreement, will be those rates presented and accepted pursuant to the Contractor's proposal, which shall be equivalent or no less than rates offered by the prior service provider during 2007 RFP process, which are equivalent to those offered by the previous provider. Initially the tariff will remain the same as offered by the previous provider. Beginning July 1, 2010, the rates charged to inmates or to the persons whom they call collect, which are associated with this agreement, will be those rates provided in the letter dated July 29, 2009, which is attached hereto and incorporated by reference. Any rate or tariff increase for inmate telephone calls is subject to the approval of the Sheriff or his designee, and shall not be binding on County unless so approved in writing, except for rate changes mandated by law or statute. In that case, contractor shall notify County as soon as is practicable of the rate change. In no event may the rates established be increased to the extent that the maximum tariffs charged by the common carrier are exceeded.

- B. Inmate Welfare Fund. All proceeds to County under this agreement shall be deposited to the Inmate Welfare Fund, pursuant to Section 4025(d) PC, and shall be used for such inmate services as described therein and pursuant to Title 15, Article 6, California Code of Regulations (CCR).

- C. Schedule of Payments. Contractor will pay the County the Commission on a quarterly basis. The commissions shall be paid in advance for each quarter not later than fifteen (15) days following the last day of the preceding quarter. A late penalty fee at the rate of 5% will be applicable on the amount for each day late into the quarter (e.g. If payment is made on the 19<sup>th</sup> day following the end of the preceding quarter, the 5% penalty will be for 19 days even though there was a 15 day grace period). A reconciliation of commission paid for the quarter against actual commission due will be made each quarter. Any true-ups due to County shall be paid on an annual basis.

Initial Additional Annual Payment Date: County and Contractor agree that the effective date of commencement of Commission payments shall be the point of completion of Contractor's equipment installation and cutover of services from the prior inmate telephone service provider, provided that the first year additional payment of \$150,000 shall be paid no later than January 15, 2008, and the Commission payments shall commence no later than the month of January, 2008. It is understood that said first month of Commission payments may be a partial month to be pro-rated between Contractor and the prior service provider, based on date of service cut-over. This section is applicable solely to the initial system conversion period in the first year of this Agreement.

2. Section 5. TERM AND TERMINATION, of the Agreement is hereby amended to read as follows:

**5. TERM AND TERMINATION**

Subject to compliance with the terms and conditions of this Agreement, the term of this Agreement shall be in effect from the date of original execution **until May 31, 2013.**

This Agreement may be terminated by Contractor, Sheriff or his designee at any time upon ten (10) days written notice to the other party.

3. This Amendment Two is hereby incorporated and made a part of the original Agreement and subject to all provisions therein.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

**COUNTY OF SAN MATEO**

BY: \_\_\_\_\_  
PRESIDENT, BOARD OF SUPERVISORS

DATE: \_\_\_\_\_

**ATTEST:**

BY: \_\_\_\_\_  
CLERK OF SAID BOARD

**GLOBAL TEL\*LINK**

BY:  \_\_\_\_\_  
(SIGNATURE)

 \_\_\_\_\_  
(PRINTED NAME)

DATE: 3/28/13