

AGREEMENT TERMS

Hampshire Sheriff's Office INMATE COMMUNICATION SERVICES AGREEMENT

INTRODUCTION

Inmate Calling Solutions with its principal place of business located at 2200 Danbury Street, San Antonio, Texas 78217 (hereinafter "Vendor") and Hampshire Sheriff's Office, with its principal place of business at 205 Rocky Hill Rd, Northampton, MA 01062-7901 (hereinafter "Customer") hereby agree to execute this Inmate Telephone Service Agreement ("Agreement"), effective November 15th, 2020 ("Effective Date").

1. AGREEMENT

1.1. Pursuant to RFP # HSD FY20-02 Customer hereby awards this Agreement to Vendor and provides Vendor the exclusive right and privilege to install and operate all inmate communication services (Inmate Telephone Service and Tablets) and related equipment at Customer's Facility. **Attachment 1 – Mandatory Requirements** of the RFP is hereby incorporated into the Agreement and attached hereto as **Attachment 1 – Mandatory Requirements**. Details surrounding Customer's Facility and required equipment can be found in **Attachment 1 - Section G. (Facility Specifications)**. Vendor shall, at no cost to Customer, provide all wiring for the inmate telephones, install the inmate and visitation telephones and the related hardware and software specifically identified herein, to enable inmates at the Facility to make free, collect, pre-paid and/or debit local, long distance and international calls from the Facility pursuant to the terms set forth herein.

1.2. Vendor shall provide the Edovo correctional-grade tablet solution ("Tablets") at no cost to Customer. At a minimum, the Tablets shall have the capability to access various applications including electronic messaging, comprehensive education learning management system, instructional material, inmate requests, medical requests and grievances. Customer reserves the right to add an ITS application to the Tablets.

2. TERM

This Agreement shall commence upon the Effective Date above and remain in force for an initial term of 3 years with an expiration date of November 15th, 2023 ("Initial Term"). This Agreement shall not bind, nor purport to bind, Customer for any contractual commitment in excess of the Initial Term. However, Customer, at its sole option, shall have the right to renew this Agreement for 2 additional 1-year terms or on a month-to-month basis (not to exceed 12 months) prior to expiration of the Initial Term or renewal term of this Agreement. In the event Customer exercises such right, all terms and conditions, requirements, and specifications of this Agreement, and any Amendments, shall remain the same and apply during the renewal term(s). This Agreement will not automatically renew.

3. VENDOR RESPONSIBILITIES

Vendor shall agree to all terms and conditions set forth in this Agreement, and Vendor shall agree to the specifications, including, but not limited to, the features and functionalities of the ITS and Tablets. If Customer designates an agent to act on Customer's behalf ("Designated Agent"), Vendor shall follow Customer's direction in working with such Designated Agent.

NEGOTIATED TERMS

4. SURETY BOND

Vendor shall furnish a Surety Bond in the form of a bond issued by a Surety Company authorized to do business in the state of Massachusetts a Cashier's Check, or Irrevocable Letter of Credit payable to Customer within 10 calendar days after the Agreement execution date and prior to any installation work or equipment delivery. The Surety Bond must be made payable to Customer in the amount of \$20,000.00 and will be retained during the full period of the Agreement and/or renewal term(s). Personal or company checks are not acceptable. The dates of performance must be specified on

the Surety Bond. In the event that the Customer exercises its option to extend the Agreement for an additional period, Vendor shall be required to maintain the validity and enforcement of the Surety Bond for the said period, pursuant to the provisions of this paragraph, in an amount stipulated at the time of the Agreement renewal.

5. REVENUE SHARE, PAYMENT AND REPORTING

5.1. Pursuant to Vendor's response to RFP # HSD FY19-20, Vendor shall remit to customer 60.6% revenue share to Customer on Gross Revenue generated by and through all inmate telephone services and 0% revenue share to Customer on Gross Revenue generated by and through all Tablet services. Gross Revenue is defined in **Attachment 1 - Section A (General Conditions)**.

6. RATES AND FEES

6.1. Unless specifically stated otherwise, both parties herein mutually agree upon the rates and fees for inmate telephone calls, Tablet services and inmate video visitation sessions as detailed in **Attachment 1 - Section H. (Rates, Fees and Revenue Share)**.

7. RECONCILIATION

7.1. Customer, or its Designated Agent, shall have the right from the Effective Date of this Agreement and for a period of 2 years after the termination date of this Agreement, upon 10 business days' written notice, to fully reconcile or examine any and all of Customer information pertaining to this Agreement. Customer retains the right to have another independent Agency of Customer's exclusive choice, perform any or all reconciliations and examinations pertaining to this Agreement.

7.2. Vendor shall maintain accurate, complete and reconcilable records, in an electronic format, detailing the Gross Revenues from which revenue share payments can be determined for the ITS, Tablets and VVS. The records shall include all CDRs, EMI billing files, pre-paid card sales and associated invoices, debit purchase or usage reports and associated invoices and commissioning reports during the term of this Agreement and for no less than 2 years after the term of this Agreement.

7.3. Vendor shall pay resolved and agreed upon amounts due and, in the event the foregoing reconciliation reveals an amount due Customer at least 3% above the amount otherwise paid for the period reconciled and Customer's reasonable cost of reconciliation, all within 30 days of the resolution date. If the agreed upon amounts are not paid within 30 days, the amounts due to Customer will accrue interest at the rate of 1.5% per month, or the highest rate permitted by law (whichever is less) until such monies are paid.

8. ASSIGNMENT AND MERGERS/ACQUISITION

8.1. The services to be performed under the Agreement shall not be assigned, sublet or transferred without 30-days advance written notification to the Customer and then only upon Vendor's receipt of the Customer's written consent.

8.2. Upon receipt of the Customer's written consent, any such purchaser, assignee, successor, or delegate shall thereupon assume all rights and responsibilities of Vendor. However, the Customer may assign any and/or all of its rights and obligations hereunder without Vendor's written consent but upon the Customer's written notice thereof to Vendor (1) to any affiliate; (2) pursuant to any sale or transfer of all or substantially all of its business or assets; (3) pursuant to any merger, acquisition or reorganization; or (4) as part of a bona fide pledge to a third party lending institution of collateral of the assignor's rights hereunder.

8.3. If during the Agreement term and any renewal term(s), Vendor merges or is acquired by another entity, the following documents must be submitted to the Customer.

8.3.1. Corporate resolutions prepared by Vendor and the new entity ratifying acceptance of all of the Agreement and its terms, conditions and processes;

8.3.2. New Federal Identification Number (FEIN) if applicable; and,

8.3.3. Other documentation requested by Customer.

8.4. Vendor expressly understands and agrees that it assumes and is solely responsible for all legal and financial responsibilities related to the execution of a subcontract. Vendor agrees that utilization of a subcontractor to provide any of the products/services in the Agreement shall in no way relieve Vendor of the responsibility for providing the products/services as described and set forth herein.

9. TERMINATION/DEFAULT

9.1. In the event Vendor fails to perform any terms or conditions of the Agreement, Customer may consider Vendor in default of the Agreement and supply Vendor written notice of such default. In the event said default is not remedied to the satisfaction and approval of Customer within 30 calendar days of receipt of such notice, Customer may terminate the Agreement. Upon termination, Vendor shall adhere to the transition requirements as outlined in **Attachment 1 - Section D (General Installation Requirements)**.

9.2. Customer may terminate the Agreement between Customer and Vendor upon 90-days written notice from Customer to Vendor without penalty. Upon termination, Vendor shall adhere to the transition requirements as outlined in **Attachment 1 - Section D (General Installation Requirements)**.

9.3. Should Vendor for any reason be unable to satisfy the requirements contained in the Agreement, Customer may, at its sole discretion, call for the Surety Bond due, in part or in full for non-performance, and/or as liquidated damages.

9.4. Should a material change in the rules or policies of the FCC or other regulatory body applicable to inmate communication services occur following the execution of the Agreement, which change affects (a) the rates permitted to be charged by the Vendor to inmates under the Agreement; (b) the right of Customer to recover its costs; or (c) the ability for Vendor to pay to Customer a revenue share, fees (including but not limited to the Cost Recoupment Payment) or other cost recovery mechanisms, then, at Customer's request, Vendor and Customer will negotiate in good faith an amendment to the Agreement reasonably acceptable to Customer that enables Customer to fully recover its costs in a manner compliant with the change in the FCC's (or other regulatory body's) rules or policies. If Vendor and Customer are unable to mutually agree on such an Agreement amendment within 30 days of Customer's request, then Customer may terminate the Agreement at its sole discretion and without penalty or liability to the Customer, and Customer may select another inmate communication services provider.

10. INDEMNIFICATION

10.1. Vendor shall defend, indemnify, and hold Customer and its affiliates, agents, employees, officers, directors, and successors harmless from loss, cost, expenses, damages or liability (including reasonable attorney's fees and court costs) resulting from actions, causes of action or claims brought or threatened under the Agreement, for (a) any actual or alleged negligence or dishonesty of, or any actual or alleged act of commission or omission by, Vendor or any of its employees, agents or subcontractors in providing the equipment and services hereunder; (b) the operation of Vendor's business or the inmate communication services; (c) any breach by Vendor of its obligations hereunder; or (d) any alleged patent, copyright or trademark infringement or unauthorized use of trade secrets or other proprietary rights in connection with the inmate communication services, except where such claims, demands or liabilities are due to the negligence of Customer, its agents or employees.

10.2. Customer agrees to provide Vendor with reasonable and timely notice of any claim, demand, or cause of action made or brought against Customer arising out of or related to the services rendered by Vendor shall have the right to defend any such claim at its sole cost and expense and with its exclusive discretion. Customer will promptly advise Vendor of any proposed agreement to compromise or settle any claim and Vendor will have ten (10) days to respond to such proposal.

10.3. In the event any infringement claim is made or threatened against Customer, or injunctive relief is granted to a claimant, Vendor shall at its sole cost and expense (i) obtain the right for Customer to continue use of the services; (ii) substitute other services of like capability, or (iii) replace or modify the services to render them non-infringing while

retaining like capability. In the event Vendor is unable to perform any of the above, Customer may terminate this Agreement upon providing sixty (60) days written notice to Vendor and Vendor shall be responsible for all of Customer's costs and expenses of whatever nature or kind in connection therewith.

10.4. These indemnities and remedies shall survive the expiration or other termination of the Agreement.

11. INSURANCE

13.1 During the period of the Agreement, Vendor at its own expense agrees to carry and maintain the following minimum insurance policy of public liability and property damage issued by a casualty company authorized to do business in the state of Massachusetts and in a standard form approved by the Board of Insurance Commissioners in the state of Massachusetts. The insurance company should have a Best Rating of no less than A. Coverage provisions should insure the Customer and the public from any loss or damage that may arise to any person or property as a result of the services rendered by Vendor.

13.2 Vendor shall provide Customer with a 30-day advance written notice of cancellation or material changes in said insurance.

13.3 Annual renewals for the term of this policy should be submitted prior to the expiration date of any policy.

13.4 Vendor shall provide Customer a Certificate of Insurance, on an original ACORD certificate, evidencing required coverage described below, within 10 days after receipt of notice of award. Said certificate shall show Customer as an additional insured and shall include a waiver of subrogation.

Automobile Liability	
Bodily Injury – Each Person	\$ 250,000.00
Bodily Injury – Each Accident	\$ 500,000.00
General Liability	
Bodily Injury or Death – Each Person	\$ 500,000.00
Property Damage – Per Incident (Resulting in Injury/Destruction of Property)	\$ 100,000.00
Excess Liability	
Umbrella Form	\$ 1,000,000.00
Worker's Compensation	Statutory

13.5 Customer agrees to provide Vendor with reasonable and timely notice on any claim, demand or cause of action made by or brought against Customer arising out of the service provided by Vendor. Vendor shall have the right to defend any such claim at its sole cost and expense and with its exclusive discretion.

13.6 For any person or contractor with whom Vendor enters into a contract to provide the services defined in this Agreement, Vendor must:

13.6.1 Provide a certificate of coverage, for all persons providing the services defined in this Agreement. Coverage shall be based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Massachusetts Labor Code;

13.6.2 Provide a new certificate, prior to the end of the coverage period, of coverage showing extension of coverage if the coverage period shown on Vendor current certificate of coverage ends during the duration of the project;

13.6.3 Retain all required certificates of coverage for the duration of the project and for 2 years thereafter; and

13.6.4 Notify Customer in writing, within 10 business days after Vendor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

14 DISCREPANCY

14.1 Should a discrepancy or conflict among the specific provisions of this Agreement and its amendments, RFP # HSD FY19-20, its attachments, amendments, and BAFO and the Vendor's RFP response, the discrepancy or conflict shall be resolved as follows:

14.1.1 The specific provisions of the Agreement Terms (and its attachments) will prevail over the RFP, its attachments, amendments and BAFO.

14.1.2 The RFP its Attachments and Amendments will prevail over the Vendor Response.

14.2 Exceptions or objections to specific RFP provisions in the Vendor's Response that have not been explicitly accepted by the Customer in writing shall not be included in this Agreement and shall be given no weight or consideration.

15 SUBCONTRACTS

15.1 Any subcontracts for the products/services described herein shall include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by Vendor and Customer and to ensure that Customer is indemnified, saved and held harmless from and against any and all claims of damage, loss and cost (including attorney fees) of any kind related to a subcontractor in those matters described in this Agreement.

15.2 Vendor expressly understands and agrees that it assumes and is solely responsible for all legal and financial responsibilities related to the execution of a subcontract. Vendor agrees that utilization of a subcontractor to provide any of the products/services in this Agreement shall in no way relieve Vendor of the responsibility for providing the products/services as described and set forth herein. Vendor shall identify any subcontractors used to provide services under this Agreement.

15.3 In the event of unsatisfactory performance, as determined by Customer, Customer may request to substitution of a subcontractor utilized by Vendor to fulfill the obligations under this Agreement.

16 FORCE MAJEURE

Neither party shall be held liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, volcanic action, other major environmental disturbances, or unusual weather conditions.

17 NOTICE

Any notice required by this Agreement shall be supplied in writing in electronic format and/or delivered in person or by registered or certified mail addressed to the party's address listed below. Notice shall be presumed to have been received 5 business days after it is deposited in a U.S. Postal Service depository.

FOR CUSTOMER:

Hampshire Sheriff's Office
Attn: Sheriff Patrick Cahillane
205 Rocky Hill Road
Northampton, MA 01062-7901

FOR VENDOR:

Inmate Calling Solutions
Attn: Mike Kennedy
2200 Danbury Street
San Antonio, TX 78217

18 ADDITIONAL REQUIREMENTS AND SPECIFICATIONS

18.1 Vendor shall provide any and all notices as may be required under the Drug-Free Workplace Act of 1998, 28 CFR Part 67, Subpart F, and any applicable Massachusetts laws, to the employees and all subcontractors to ensure the facility(s) maintains a drug free workplace. Customer reserves the right to review drug-testing results of Vendor's personnel

assigned to work at the Facility. Customer may require, at Vendor's expense, drug testing of Vendor's personnel if no drug testing records exist or if such test results are older than 6 months.

18.2 Vendor does not, and shall not during the performance of this Agreement knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

18.3 Bidding procedures and award of contracts will be in accordance with Chapter 7 Section 22, of the Massachusetts General Laws, plus all applicable federal, state, and local laws and regulations.

18.4 Prevailing wage rates as set by the Massachusetts Division of Occupational Safety are applicable to this project under M.G.L. Chapter 149, Section 27H.

18.5 The awarded Bidder is required to sign a Commonwealth Standard Contract Form, without modification, and return it within 7 working days of the receipt of the Agreement. Failure to return the form may result in negating the award.

19 MISCELLANEOUS TERMS

19.1 Independent Vendor

Nothing in this RFP is intended nor shall be construed to create an employer/employee relationship, a joint venture relationship or any other relationship allowing Customer to exercise control over the manner or method by which Vendor or its subcontractor perform under the Agreement.

19.2 Interpretation

This Agreement shall be interpreted under, and governed by, the Laws of Massachusetts. The parties hereto agree that any action relating to this Agreement shall be instituted in a Federal Court in Hampshire County in the state of Massachusetts.

19.3 Severability

If any part of this Agreement is contrary to any Federal, State or Local law, it is not applicable and such invalidity shall not affect the other provisions or applications of this Agreement which can be given effect without the invalid provision. Agreement that can be given effect without the invalid provision or applications. To that end, the provisions of this Agreement are declared to be severable. If any provision hereof is held invalid by a Court of competent jurisdiction that provision shall be automatically deleted and all remaining provisions shall remain in full force and effect.

19.4 Entirety, Waiver, and Modification

This Agreement, together with any Attachments, represents the entire understanding between Customer and Vendor (collectively "Parties") with respect to the subject matter hereof and supersedes all prior communications, agreements and understandings relating thereto. Only a written instrument executed by the Party waiving compliance may waive or modify the terms of this Agreement. The failure of either Party at any time to require performance of any provision hereof shall in no manner affect the right at a later date to enforce the same. No waiver by either Party of any term of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed a further or continuing waiver of such term or of any other term of this Agreement.

19.5 Confidentiality

19.5.1 The Parties hereto shall keep confidential any and all information which either Party states to be confidential or proprietary and so advises the other Party or labels the information as such ("Confidential Information"). Such information shall remain the property of the Party owning such information and, when in tangible form shall be returned to the respective party or otherwise disposed of as directed by the appropriate Party. Any violation of this provision by either Party shall be actionable. However, notwithstanding the foregoing, neither Party shall be under any obligation to maintain in confidence any portion of the information it has received which (i) is now, or which becomes hereafter through no act or failure to act on the part of the receiving Party, generally known or available to the public; (ii) is already known by the receiving Party at the time of the disclosure of such information and was not under any obligations of confidence; (iii) is hereafter furnished to the receiving Party by a source other than the owner, provided such source is not known by the receiving Party to be prohibited

from disclosing such information by a contractual, legal or fiduciary obligation; (iv) has been independently developed by the receiving Party without benefit of the confidential or proprietary information of the other; or, (v) is required to be disclosed by any applicable law or regulation or by order of any governing body or court of competent jurisdiction; provided however, that the Party being required to disclose the confidential or proprietary information of the other must promptly notify the owner of same of the demand for such disclosure and such disclosure to a government entity pursuant to law, order or regulation shall not provide a basis for any additional disclosure of such information by either Party.

19.5.2 Each Party including its agents and representatives shall: (i) follow reasonable procedures to protect and maintain the confidentiality of the Confidential Information; (ii) not disclose, or allow to be disclosed, the Confidential Information to any party other than to its employees, contractors, officers, or directors who have a need to know in order to perform the services contemplated under this Agreement, and are under the same binding obligation of confidentiality provided herein with respect to any such information; (iii) not use the Confidential Information for any purpose other than to perform under this Agreement; and, (iv) treat all Confidential Information of the other Party with the same degree of care to avoid disclosure to third parties as it uses with respect to the recipient Party's own Confidential Information, but not less than a reasonable degree of care.

19.6 Dispute Resolution

The parties shall attempt to resolve any dispute arising out of or relating to this Agreement through negotiations between senior executives of the parties who have authority to settle the same. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. Disputes or controversies related to this Agreement not resolved through negotiation within a period of 60 days shall be governed by and interpreted in accordance with the laws of Massachusetts without regard to its conflicts of law provisions. In the event of litigation relating to this Agreement, the parties agree to submit said dispute to the jurisdiction of Massachusetts courts.

19.7 Limitation of Liability.

In no event shall either party be liable hereunder for loss of profits, loss of goodwill, consequential or punitive damages of any kind regardless of the form or theory of any claim and irrespective of whether such party has been advised of the possibility of such damages.

19.8 Vendor Costs and Taxes and Fees on Services

It is expressly understood that Customer is not responsible in any way, manner or form for any of Vendor's costs, including but not limited to, taxes (including sales tax), shipping charges, network charges, insurance, interest, penalties, attorney fees, liquidated damages, licenses, fees, tariffs or other costs related to any and all Vendor's services. Vendor agrees that it is entirely responsible for calculating, collecting and remitting all fees and taxes, including sales tax where applicable, on all services and items provided to the inmates. Including, but not limited to, any and all taxes as applicable for the inmate communication services such as; collect, debit, pre-paid and any other calls, video visitation sessions and Tablet applications and transactions.

20. LIQUIDATED DAMAGES

Vendor’s failure to meet Agreement requirements both correctly and on time may result in substantial injury the Customer; the amount of damages resulting from such failure may not always be quantified with certainty. Each failure to meet a requirement, both correctly and on time, may be subject to fines and liquidated damages as outlined herein. Any enforced fines/liquidated damages will be invoiced by Customer to Vendor. Payments due Customer for the invoiced amount(s) shall be due within 30 days of Vendor’s receipt of the invoice.

LIQUIDATED DAMAGES	
Description	Amount
<p>ITS Any changes to the monthly collect call threshold; all changes must be approved by Customer prior to implementation.</p>	<p>\$350.00 per day from the day the unauthorized change was implemented through the date Vendor discontinues the unapproved fees and/or charges.</p>
<p>All Inmate Communication Services Any charges/fees added to the called party’s bill, account, or inmate without the express written consent of Customer.</p>	<p>\$350.00 per day from the date the additional charges/fees were first added through the date the charges/fees were discontinued.</p>
<p>All Inmate Communication Services Unauthorized free calls or Tablet transactions completed by Vendor including allowing access to unauthorized wireless networks.</p>	<p>\$2.00 per completed, unauthorized free call.</p>
<p>All Inmate Communication Services Revenue share payments, ITS traffic detail reports, billing files, CDRs, Tablet transaction reports and/or all other reports not containing the required fields, received by the Customer after the date specified in Attachment 1 - Section A (General Conditions) and Section 7 (Compensation, Payment and Reporting). If the revenue share payment is late, reporting is late and/or reports do not contain all required fields, late charges/interest for all three shall apply. Revenue share payment discrepancies must be resolved by Vendor and to Customer’s reasonable satisfaction, within thirty (30) days of receipt of notification of a discrepancy from the Customer and/or its Designated Agent or such discrepancy is subject to late charges, as described and/or termination of this Agreement at the sole discretion of the Customer and/or any legal course of action the Customer elects to pursue.</p>	<p>5% per month of the revenue share amount due.</p> <p>\$750.00 per month for each report not received by the due date specified or for each report that does not contain all of the fields and information identified in Attachment 1 - Section A (General Conditions).</p> <p>\$100.00 per day for any daily CDR reports not submitted by Vendor, for each day where the CDR report does not contain all of the fields and information identified in Attachment 1 - Section A (General Conditions).</p>
<p>All Inmate Communication Services Any changes to the rates without the express written approval of Customer. Vendor must issue refunds to all overcharged end-users or inmates within 5 business days; a list of the issued credits must be provided to Customer as documentation. Customer will not issue a refund of revenue-share or cost recoupment for unapproved rate increases.</p>	<p>\$2.00 per completed call, video visitation session or Tablet transaction that was rated/charged using the unauthorized rates(s).</p>

LIQUIDATED DAMAGES (Continued)

<p>All Inmate Communication Services Any bill types, transactions or applications implemented or removed regarding the processing and/or completion of inmate telephone calls and Tablet transactions without the express written consent of Customer.</p>	<p>\$500.00 per day for each day the bill type, transaction or applications is implemented or removed.</p>
<p>All Inmate Communication Services Due to Vendor's action(s), if any installation, initial or additionally requested inmate communications equipment is not completed within the timeframe allowed in the agreed-upon implementation plan.</p>	<p>\$500.00 per day for each day the after the agreed-upon date until the installation is complete.</p>
<p>All Inmate Communication Services Vendor shall be responsible for resolving any reported repairs or replacements within 10 days following the date of notification of a service request or inmate communication service failure ("Cure Period"). Should Vendor fail to resolve the reported repair or replacement within the specified Cure Period, Vendor may be liable for liquidated damages.</p>	<p>\$500.00 for each day after the Cure Period and for each reported repair or replacement that the Vendor fails to resolve, until each reported repair or replacement is resolved by Vendor.</p>
<p>All Inmate Communication Services When Customer suffers one or more lost, unrecoverable or un-useable recording(s). Customer agrees to notify Vendor of such instances and provide up to 7 days per instance for Vendor to produce the call recordings.</p>	<p>\$1,000.00 per occurrence.</p>
<p>All Inmate Communication Services Vendor shall adhere to Customer's performance process when upgrading each inmate communications service, software, equipment, or performing any changes to the inmate communications that affect the scope under this Agreement. Any deviation from the process may result in liquidated damages incurred by Vendor.</p>	<p>\$500.00 per occurrence.</p>

In Witness Whereof, the Parties have set their hands as on the day and year written below, acting through their authorized representatives.

Hampshire Sheriff's Office

Patrick J. Cahillane
Authorized Signature

Sheriff Patrick Cahillane

Sheriff
Title

11/13/20
Date

Vendor Name

Michael Kennedy
Authorized Signature

Mike Kennedy

Typed or Printed Name

Vice President Sales & Marketing

Title

11/6/2020

Date



COMMONWEALTH TERMS AND CONDITIONS

opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph. Any indemnification of the Contractor shall be subject to

appropriation and applicable law.

12. Waivers. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

13. Risk Of Loss. The Contractor shall bear the risk of loss for any Contractor materials used for a Contract and for all deliverables, Department personal or other data which is in the possession of the Contractor or used by the Contractor in the performance of a Contract until possession, ownership and full legal title to the deliverables are transferred to and accepted by the Department.

14. Forum, Choice of Law And Mediation. Any actions arising out of a Contract shall be governed by the laws of Massachusetts, and shall be brought and maintained in a State or federal court in Massachusetts which shall have exclusive jurisdiction thereof. The Department, with the approval of the Attorney General's Office, and the Contractor may agree to voluntary mediation through the Massachusetts Office of Dispute Resolution (MODR) of any Contract dispute and will share the costs of such mediation. No legal or equitable rights of the parties shall be limited by this Section.

15. Contract Boilerplate Interpretation, Severability, Conflicts With Law, Integration. Any amendment or attachment to any Contract which contains conflicting language or has the affect of a deleting, replacing or modifying any

printed language of these Commonwealth Terms and Conditions, as officially published by ANF, CTR and OSD, shall be interpreted as superseded by the official printed language. If any provision of a Contract is found to be superseded by state or federal law or regulation, in whole or in part, then both parties shall be relieved of all obligations under that provision only to the extent necessary to comply with the superseding law, provided however, that the remaining provisions of the Contract, or portions thereof, shall be enforced to the fullest extent permitted by law. All amendments must be executed by the parties in accordance with Section 1. of these Commonwealth Terms and Conditions and filed with the original record copy of a Contract as prescribed by CTR. The printed language of the Standard Contract Form, as officially published by ANF, CTR and OSD, which incorporates by reference these Commonwealth Terms and Conditions, shall supersede any conflicting verbal or written agreements relating to the performance of a Contract, or attached thereto, including contract forms, purchase orders or invoices of the Contractor. The order of priority of documents to interpret a Contract shall be as follows: the printed language of the Commonwealth Terms and Conditions, the Standard Contract Form, the Department's Request for Response (RFR) solicitation document and the Contractor's Response to the RFR solicitation, excluding any language stricken by a Department as unacceptable and including any negotiated terms and conditions allowable pursuant to law or regulation.

IN WITNESS WHEREOF, The Contractor certify under the pains and penalties of perjury that it shall comply with these Commonwealth Terms and Conditions for any applicable Contract executed with the Commonwealth as certified by their authorized signatory below:

CONTRACTOR AUTHORIZED SIGNATORY: _____

(signature)

Print Name: Mike Kennedy

Title: Vice President Sales & Marketing

Date: 11/6/2020

(Check One): Organization Individual

Full Legal Organization or Individual Name: Inmate Calling Solutions, LLC

Doing Business As: Name (if Different): ICSolutions

Tax Identification Number: 82-0559085

Address: 2200 Danbury Street, San Antonio, Texas 78217

Telephone: (866) 228-4040 FAX: (210) 693-1016

INSTRUCTIONS FOR FILING THE COMMONWEALTH TERMS AND CONDITIONS

A "Request for Verification of Taxation Reporting Information" form (Massachusetts Substitute W-9 Format), that contains the Contractor's correct TIN, name and legal address information, must be on file with the Office of the Comptroller. If the Contractor has not previously filed this form with the Comptroller, or if the information contained on a previously filed form has changed, please fill out a W-9 form and return it attached to the executed COMMONWEALTH TERMS AND CONDITIONS.

If the Contractor is responding to a Request for Response (RFR), the COMMONWEALTH TERMS AND CONDITIONS must be submitted with the Response to RFR or as specified in the RFR. Otherwise, Departments or Contractors must timely submit the completed and properly executed COMMONWEALTH TERMS AND CONDITIONS (and the W-9 form if applicable) to the: **Payee and Payments Unit, Office of the Comptroller, 9th Floor, One Ashburton Place, Boston, MA 02108** in order to record the filing of this form on the MMARS Vendor File. Contractors are required to execute and file this form only once.



COMMONWEALTH OF MASSACHUSETTS CONTRACTOR AUTHORIZED SIGNATORY LISTING

CONTRACTOR LEGAL NAME :
CONTRACTOR VENDOR/CUSTOMER CODE:

INSTRUCTIONS: Any Contractor (other than a sole-proprietor or an individual contractor) must provide a listing of individuals who are authorized as legal representatives of the Contractor who can sign contracts and other legally binding documents related to the contract on the Contractor's behalf. In addition to this listing, any state department may require additional proof of authority to sign contracts on behalf of the Contractor, or proof of authenticity of signature (a notarized signature that the Department can use to verify that the signature and date that appear on the Contract or other legal document was actually made by the Contractor's authorized signatory, and not by a representative, designee or other individual.)

NOTICE: *Acceptance of any payment under a Contract or Grant shall operate as a waiver of any defense by the Contractor challenging the existence of a valid Contract due to an alleged lack of actual authority to execute the document by the signatory.*

For privacy purposes **DO NOT ATTACH** any documentation containing personal information, such as bank account numbers, social security numbers, driver's licenses, home addresses, social security cards or any other personally identifiable information that you do not want released as part of a public record. The Commonwealth reserves the right to publish the names and titles of authorized signatories of contractors.

AUTHORIZED SIGNATORY NAME	TITLE
Mike Kennedy	Vice President Sales & Marketing
Brendan Philbin	Vice President Product Development
Tim McAteer	President & General Manager

I certify that I am the President, Chief Executive Officer, Chief Fiscal Officer, Corporate Clerk or Legal Counsel for the Contractor and as an authorized officer of the Contractor I certify that the names of the individuals identified on this listing are current as of the date of execution below and that these individuals are authorized to sign contracts and other legally binding documents related to contracts with the Commonwealth of Massachusetts on behalf of the Contractor. I understand and agree that the Contractor has a duty to ensure that this listing is immediately updated and communicated to any state department with which the Contractor does business whenever the authorized signatories above retire, are otherwise terminated from the Contractor's employ, have their responsibilities changed resulting in their no longer being authorized to sign contracts with the Commonwealth or whenever new signatories are designated.



Signature

Date: 11/6/2020

Title: President & General Manager Telephone: (210) 572-9570

Issued May
2004



**COMMONWEALTH OF MASSACHUSETTS
CONTRACTOR AUTHORIZED SIGNATORY LISTING**

CONTRACTOR LEGAL NAME : Inmate Calling Solutions, LLC d/b/a ICSolutions

CONTRACTOR VENDOR/CUSTOMER CODE: VC

Fax: (210) 693-1016

Email: rfp@icsolutions.com

[Listing can not be accepted without all of this information completed.]

A copy of this listing must be attached to the "record copy" of a contract filed with the department.

Affirmative Action Commitment Statement

(Required for procurements of \$50,000 or more - employers only)

Bidder: Inmate Calling Solutions, LLC d/b/a ICSolutions

RFR Name/Title: Inmate Communication Services

RFR Number: # RFP No.: HSD FY20-02

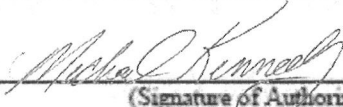
Pursuant to Executive Order 227 and 246, any contract with a potential financial benefit of \$50,000 dollars or more requires a bidder to submit an Affirmative Action Commitment Statement. The format for Affirmative Action Commitments shall be determined in accordance with the Executive Order (s) and the procuring department's secretariat, if the secretariat specifies a format. If a format has not been specified by the department's secretariat, bidders will be required to complete either A or B below:

A. BIDDER MUST ATTACH A COPY OF ITS AFFIRMATIVE ACTION COMMITMENTS TO THE RFR RESPONSE.

OR

B. BIDDER MUST COMPLETE THE FOLLOWING CERTIFICATION FOR THEIR AFFIRMATIVE ACTION COMMITMENT STATEMENT.

In witness whereof, the bidder certifies under the pains and penalties of perjury that, as an employer, it is committed to non-discrimination in employment and, if selected to execute contracts with the Commonwealth of Massachusetts, shall also be committed to procure commodities, services and supplies from certified Minority- and Women-Owned Business Enterprises as outlined in their submitted Affirmative Market Program (AMP) Plan Form pursuant to Executive Order 390, including businesses owned by individuals with disabilities and businesses owned and controlled by socially or economically disadvantaged individuals, both in the performance of contracts with the Commonwealth of Massachusetts and in the performance of its business generally, as certified by the execution of the certification by an authorized signatory of the bidder as of the last date indicated below.

X 
(Signature of Authorized Signatory of Bidder)

PRINT NAME: Mike Kennedy
(Print Name of Authorized Signatory of Bidder)

TITLE: Vice President Sales & Marketing
(Print Title of Authorized Signatory of Bidder)

DATE: 11/6/2020

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the Office of the Comptroller (CTR), the Executive Office for Administration and Finance (ANF), and the Operational Services Division (OSD) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. The Commonwealth deems void any changes made on or by attachment (in the form of addendum, engagement letters, contract forms or invoice terms) to the terms in this published form or to the Standard Contract Form Instructions, Contractor Certifications and Commonwealth Terms and Conditions which are incorporated by reference herein. Additional non-conflicting terms may be added by Attachment. Contractors are required to access published forms at CTR Forms: <https://www.macomptroller.org/forms>. Forms are also posted at OSD Forms: <https://www.mass.gov/lists/osd-forms>.

CONTRACTOR LEGAL NAME: (and d/b/a): <u>Inmate Calling Solutions, LLC d/b/a ICSolutions</u>		COMMONWEALTH DEPARTMENT NAME: <u>Hampshire Sheriff's Office</u> MMARS Department Code: <u>HSD</u>	
Legal Address: (W-9, W-4): <u>1260 Andes Blvd., St. Louis, MO 63132</u>		Business Mailing Address: <u>205 Rocky Hill Road, Northampton MA 01060</u>	
Contract Manager: <u>Mike Kennedy</u>	Phone: <u>(251) 533-0046</u>	Billing Address (if different): <u>PO Box 7000, Northampton MA 01061-7000</u>	
E-Mail: <u>mkennedy@icsolutions.com</u>	Fax: <u>(210) 693-1016</u>	Contract Manager: <u>Tammy Coe, Purchasing Agent</u>	Phone: <u>413-582-7725</u>
Contractor Vendor Code: <u>VC</u>		E-Mail: <u>tammy.coe@hsd.state.ma.us</u>	Fax: <u>413-582-7795</u>
Vendor Code Address ID (e.g. "AD001"): <u>AD__</u> (Note: The Address ID must be set up for EFT payments.)		MMARS Doc ID(s): RFR/Procurement or Other ID Number: <u>HSD FY20-02</u>	
<input checked="" type="checkbox"/> NEW CONTRACT		<input type="checkbox"/> CONTRACT AMENDMENT	
PROCUREMENT OR EXCEPTION TYPE: (Check one option only) <input type="checkbox"/> <u>Statewide Contract</u> (OSD or an OSD-designated Department) <input type="checkbox"/> <u>Collective Purchase</u> (Attach OSD approval, scope, budget) <input checked="" type="checkbox"/> <u>Department Procurement</u> (includes all Grants - 815 CMR 2.00) (Solicitation Notice or RFR, and Response or other procurement supporting documentation) <input type="checkbox"/> <u>Emergency Contract</u> (Attach justification for emergency, scope, budget) <input type="checkbox"/> <u>Contract Employee</u> (Attach Employment Status Form, scope, budget) <input type="checkbox"/> <u>Other Procurement Exception</u> (Attach authorizing language, legislation with specific exemption or earmark, and exception justification, scope and budget)		Enter Current Contract End Date <u>Prior</u> to Amendment: <u> </u> , 20 <u> </u> . Enter Amendment Amount: \$ <u> </u> . (or "no change") AMENDMENT TYPE: (Check one option only. Attach details of amendment changes.) <input type="checkbox"/> <u>Amendment to Date, Scope or Budget</u> (Attach updated scope and budget) <input type="checkbox"/> <u>Interim Contract</u> (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> <u>Contract Employee</u> (Attach any updates to scope or budget) <input type="checkbox"/> <u>Other Procurement Exception</u> (Attach authorizing language/justification and updated scope and budget)	
The Standard Contract Form Instructions, Contractor Certifications and the following Commonwealth Terms and Conditions document is incorporated by reference into this Contract and are legally binding: (Check ONE option): <input checked="" type="checkbox"/> <u>Commonwealth Terms and Conditions</u> <input type="checkbox"/> <u>Commonwealth Terms and Conditions For Human and Social Services</u>			
COMPENSATION: (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under <u>815 CMR 9.00</u> . <input checked="" type="checkbox"/> <u>Rate Contract</u> . (No Maximum Obligation) Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input type="checkbox"/> <u>Maximum Obligation Contract</u> . Enter total maximum obligation for total duration of this contract (or <u>new</u> total if Contract is being amended). \$ <u> </u> .			
PROMPT PAYMENT DISCOUNTS (PPD): Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days <u> </u> % PPD; Payment issued within 15 days <u> </u> % PPD; Payment issued within 20 days <u> </u> % PPD; Payment issued within 30 days <u> </u> % PPD. If PPD percentages are left blank, identify reason: <input checked="" type="checkbox"/> <u>agree to standard 45 day cycle</u> <input type="checkbox"/> <u>statutory/legal or Ready Payments (M.G.L. c. 29, § 23A);</u> <input type="checkbox"/> <u>only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy.)</u>			
BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT: (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) To provide the Hampshire Sheriff's Office with Inmate Communication Services (Inmate Telephone Service and Tablets) for an initial term of 3 years with two (2) one year options To renew.			
ANTICIPATED START DATE: (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: <input type="checkbox"/> 1. may be incurred as of the Effective Date (latest signature date below) and no obligations have been incurred prior to the Effective Date. <input checked="" type="checkbox"/> 2. may be incurred as of <u>Nov 15, 20 20</u> , a date LATER than the Effective Date below and no obligations have been incurred prior to the Effective Date. <input type="checkbox"/> 3. were incurred as of <u> </u> , 20 <u> </u> , a date PRIOR to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.			
CONTRACT END DATE: Contract performance shall terminate as of <u>November 14, 20 23</u> , with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.			
CERTIFICATIONS: Notwithstanding verbal or other representations by the parties, the " Effective Date " of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor certifies that they have accessed and reviewed all documents incorporated by reference as electronically published and the Contractor makes all certifications required under the Standard Contract Form Instructions and Contractor Certifications under the pains and penalties of perjury, and further agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, this Standard Contract Form, the Standard Contract Form Instructions, Contractor Certifications, the applicable Commonwealth Terms and Conditions, the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in <u>801 CMR 21.07</u> , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.			
AUTHORIZING SIGNATURE FOR THE CONTRACTOR: X: <u><i>Mike Kennedy</i></u> Date: <u>11/12/2020</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Mike Kennedy</u> Print Title: <u>Vice President Sales & Marketing</u>		AUTHORIZING SIGNATURE FOR THE COMMONWEALTH: X: <u><i>David Foley</i></u> Date: <u>11/13/20</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>David Foley</u> Print Title: <u>Budget Manager</u>	

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Inmate Calling Solutions, LLC

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

Individual/sole proprietor or single-member LLC C Corporation S Corporation Partnership Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ C

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) 5

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
1260 Andes Blvd.

6 City, state, and ZIP code
St. Louis, MO 63132

7 List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

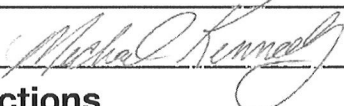
Social security number										
or										
Employer identification number										
8	2		-	0	5	5	9	0	8	5

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person ▶  Date ▶ **11/6/2020**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
 - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
 - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
 - Form 1099-S (proceeds from real estate transactions)
 - Form 1099-K (merchant card and third party network transactions)
 - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.
- If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*