

## **AMENDMENT # 1 TO PERSONAL SERVICES CONTRACT**

This Amendment #1 (“Amendment”) takes effect as of the effective date of the CPUC Order (as defined below) or the effective date of the FCC Order (as defined below), whichever occurs first (“Effective Date”), and amends and revises that certain Personal Services Contract, dated on June 1, 2019, as amended from time to time (the “Agreement”), by and between Telmate, LLC with an address of 3120 Fairview Park Drive, Suite 300, Falls Church, Virginia 22042 (the “Contractor”), and the County of Nevada, with an address of 950 Maidu Avenue, Nevada City, California 95959-8600 (the “County”) (Contractor and County collectively, the “Parties” and each a “Party”). All capitalized terms not defined herein shall have the definitions set forth in the Agreement.

**WHEREAS**, the California Public Utilities Commission (“CPUC”) issued its Order Instituting Rulemaking to Consider Regulating Telecommunication Services Used by Incarcerated People, Rulemaking 20-10-002, Decision Adopting Interim Rate Relief for Incarcerated Person’s Calling Services, issued on August 23, 2021 and effective forty-five days thereafter on October 7, 2021 (“CPUC Order”), which mandated certain interim rate caps for inmate telephone services, ancillary service charges, and other requirements.

**WHEREAS**, the Federal Communications Commission (“FCC”) issued its Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 12-375 on May 24, 2021 (“FCC Order”), which mandated certain rate caps for inmate telephone services and ancillary service charges, and other requirements; and

**WHEREAS**, the Parties have agreed to amend the Agreement in order to, among other things, implement the CPUC Order and FCC Order as further provided below.

**NOW, THEREFORE**, in consideration of the promises and covenants set forth in this Amendment, and for good and valuable consideration, the sufficiency of which is acknowledged by the Parties’ signatures, the Parties agree as follows:

1. The Contract Termination Date is extended to June 30, 2024.
2. Effective October 7, 2021, or the effective date of the CPUC Order, whichever is later, the rates and charges for international, interstate, and intrastate inmate telephone service (“ITS”) calls, and associated ancillary service charges set forth in the Agreement shall be deemed revised without further action by the Parties, and shall be implemented, as follows in this Section 2; provided, however, if the CPUC Order has not taken effect by October 26, 2021 or the effective date of the FCC Order, or the CPUC Order is no longer in effect at a future date, the rates and charges for international, interstate, and intrastate inmate telephone service (“ITS”) calls, and associated ancillary service charges set forth in the Agreement shall be deemed revised as set forth in Section 3 of this Amendment without further action by the Parties:

### **Inmate Telephone Services.**

Interstate ITS calls, whether made using a collect, debit, or prepaid/AdvancePay™ format: **\$0.07** per minute of use.

Intrastate ITS calls, whether made using a collect, debit, or prepaid/AdvancePay™ format: **\$0.07** per minute of use.

International ITS calls, whether made using a debit or prepaid/AdvancePay™ format: **\$0.21** per minute plus the applicable call termination rate for the destination country as published on the Contractor's website, which may be updated every 3 months in accordance with the FCC Order.

No per call, per connection, or flat-rate calling charges shall apply to international or interstate ITS per minute of use calls.

The ITS rates set forth above are exclusive of taxes and other amounts collected by the Contractor on behalf of, or paid to, third parties, including but not limited to payments in support of statutory or regulatory programs mandated by governmental or quasi-governmental authorities, such as the Federal Universal Service Fee, and any costs incurred by the Contractor in connection with such programs.

**Ancillary Service Charges.** The Contractor may charge certain Ancillary Service Charges, which shall be no more than the following amounts:

|   |  |
|---|--|
| Automated payment for credit card, debit card, and bill processing fees   | Not permitted  |
| Use of live operator  | Not permitted  |
| Paper bill/statement  | Not permitted  |
| Use of third-party money transmitter (e.g., MoneyGram, Western Union, credit card processing, transfers from third-party commissary accounts)                                   | The exact fee from the third-party provider passed through directly to customer with no markup up to a cap of \$6.95 per transaction |
| Use of single-call and related services to pay for a single intrastate or jurisdictionally mixed ITS call using debit/credit card, mobile phone account, or another arrangement | Not permitted  |

3. If on October 26, 2021, or the effective date of the FCC Order, whichever is later, the CPUC Order has not taken effect, or the CPUC Order is no longer in effect at a future date, the FCC Order rates and charges for international, interstate, and intrastate inmate telephone service ("ITS") calls and associated ancillary service charges set forth in the

Agreement shall be deemed revised without further action by the Parties, and shall be implemented, as follows:

**Inmate Telephone Services.**

Interstate ITS calls, whether made using a collect, debit, or prepaid/AdvancePay™ format: **\$0.21** per minute of use.

Intrastate ITS calls, whether made using a collect, debit, or prepaid/AdvancePay™ format: **\$0.21** per minute of use.

International ITS calls, whether made using a debit or prepaid/AdvancePay™ format: The Interstate ITS rate set forth above plus the applicable call termination rate for the destination country as published on the Contractor's website, which may be updated every 3 months in accordance with the FCC Order.

No per call, per connection, or flat-rate calling charges shall apply to international or interstate ITS per minute of use calls.

The ITS rates set forth above are exclusive of taxes and other amounts collected by the Contractor on behalf of, or paid to, third parties, including but not limited to payments in support of statutory or regulatory programs mandated by governmental or quasi-governmental authorities, such as the Federal Universal Service Fee, and any costs incurred by the Contractor in connection with such programs.

**Ancillary Service Charges.** The Contractor may charge certain Ancillary Service Charges, which shall be no more than the following amounts:

|   |  |
|---|--|
| Automated payment for credit card, debit card, and bill processing fees   | \$3.00 per transaction                                   |
| Use of live operator  | \$5.95 per transaction                                   |
| Paper bill/statement  | \$2.00 per transaction                                   |
| Use of third-party money transmitter (e.g., MoneyGram, Western Union, credit card processing, transfers from third-party commissary accounts) | \$6.95 per transaction                                   |
| Use of single-call and related services to pay for a single ITS call using debit/credit card, mobile phone account, or another arrangement    | \$6.95 per transaction, plus the adopted per-minute rate |

4. Effective October 7, 2021, or the effective date of the CPUC Order, whichever occurs later, Contractor agrees to provide County with a Technology Grant in the amount of five thousand dollars (\$5,000). Payment of the Technology Grant shall be made within thirty (30) days of the Effective Date of this Amendment #1 and annually for the Term of the Agreement. Aside from this Technology Grant, the Contractor shall not owe or pay any commission or other monies under the Agreement whether the commission or other monies are payable to County, or to any fund or third party designated by County, and all references to such obligation to pay commission or other monies shall be deemed removed and deleted from the Agreement without further action of the Parties and shall have no force or effect for the ensuing period, through the expiration of the Agreement.
5. If on October 26, 2021, or the effective date of the FCC Order, the CPUC Order has not taken effect, the commission payable to the County under the Agreement shall be **\$0.03** per minute of each completed billable ITS call, which shall be paid within forty-five (45) days following the month in which the call took place. The foregoing commission shall be paid on a one-time basis for each completed billable ITS call, and shall replace any and all commissions or other monies payable under the Agreement by Contractor to the County, or to any fund or third party designated by County. Additionally, Contractor agrees to provide County with a Technology Grant in the amount of five thousand dollars (\$5,000). Payment of this Technology Grant shall be made within thirty (30) days of the Effective Date of this Amendment #1 and annually for the Term of the Agreement. Other than the payments set forth in Sections 4 or 5 of this Amendment 1, the Contractor shall not owe or pay any commission or other monies under the Agreement whether the commission or other monies are payable to County, or to any fund or third party designated by County, and all references to such obligation to pay commission or other monies shall be deemed removed and deleted from the Agreement without further action of the Parties and shall have no force or effect for the ensuing period, through the expiration of the Agreement.
6. The first sentence of the first paragraph of Section 13 of the Agreement is hereby deleted in its entirety and replaced with the following:

“This Agreement shall inure to the benefit of and be binding upon the Parties and their respective permitted successors and assigns, including but not limited, to any new administration or head of County. Neither Party shall assign any right and/or obligation under this Agreement without the other Party’s prior written consent, which shall not be unreasonably withheld or delayed; provided, however, Contractor shall have the right to assign some or all its rights and/or obligations under this Agreement at any time to any entity that controls, is controlled by or is under common control with Contractor (each an “Affiliate”) without the consent of the County; provided, further, Contractor shall remain liable for any failure of any Affiliate to perform any assigned obligations. For the avoidance of doubt, a merger involving (i) Contractor or (ii) a sale of Contractor or all of Contractor’s assets shall not constitute an assignment requiring consent of County for purposes of this Agreement.
7. The following Section is hereby added to the Agreement:

“Change-of-Law. Any rule, regulation, or other change mandated by any federal, state, or local authority which may interfere with or adversely affect Contractor’s rights, obligations, or intended benefit under the Agreement shall entitle Contractor to, at its option, renegotiate or terminate the Agreement.”

8. As soon as reasonably practicable following the Effective Date, Contractor agrees to install the additional equipment listed below:
- a. Forty (40) inmate tablets
  - b. Ten (10) Wireless Access Points (WAPs)

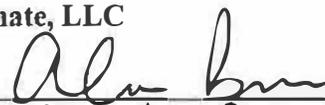
In the event of any inconsistencies between the terms and conditions contained in the Agreement and the terms and conditions contained herein, the terms and conditions contained herein shall control. Except as set forth in this Amendment, the Agreement remains in full force and effect, without modification or amendment, and is hereby ratified and confirmed. This Amendment may be executed in multiple counterparts, each of which shall be an original, and all of which shall be one and the same contract. Original signatures transmitted by facsimile or electronic mail shall be effective to create such counterparts. Each person whose signature appears below warrants and represents that they have the requisite authority to execute this Amendment on behalf of the entity for which they are signing.

**IN WITNESS WHEREOF, the foregoing Amendment has been executed by the Parties as of the latest date listed below.**

**County of Nevada**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Telmate, LLC**

By:   
Name: Alexandra Booker  
Title: Contracts Manager  
Date: 11/1/2021

**Approved as to Form:  
COUNTY COUNSEL**

By: \_\_\_\_\_  
Katharine L. Elliott  
County Counsel