



SERVICE AGREEMENT

THIS SERVICE AGREEMENT (“**Agreement**”) is made the ___ day of _____ 2022 (the “**Effective Date**”)

BY AND BETWEEN:

- (1) The Government of Bermuda as described in Schedule 1, hereinafter referred to as the “**Government**”, “**we**”, “**our**” or “**us**”; and
- (2) The supplier of service under this Agreement (whose name and contact details are set out in Schedule 1 to this Agreement and is hereinafter referred to as the “**Supplier**” or “**you**”).

The Government and you are individually referred to as a “**party**” and collectively as the “**parties**”.

This Agreement, which consists of the General Terms and Conditions, Schedule 1 and Appendix 1, sets out the terms and conditions upon which you will provide service to us.

GENERAL TERMS AND CONDITIONS

IN CONSIDERATION of the premises and mutual promises in this Agreement the parties, intending to be legally bound, agree as follows:

That in this Agreement, capitalized terms have the respective meanings referred to in this Agreement, words by their context importing the plural shall include the singular and vice versa, references to either gender includes any other gender or a neutral entity where appropriate, and a reference to any statute, regulation or law means as amended from time to time and includes any successor legislation, regulations or laws. Where the context requires, the word “**Supplier**” shall include the word “**you**” and vice versa.

1. Definitions

In this Agreement unless the context otherwise requires, the expressions set forth below have the following meanings in the Schedule or the Appendix hereto:

“**Agreement**” means this Service Agreement and includes these General Terms and Conditions, Schedule 1 and Appendix 1;

“**Appendix 1**” contains the statement of work or “**SOW**”;

“**Business Days**” means Monday to Friday between 9am – 5pm in Bermuda;

“**Claims**” means any written or oral claims,

actions or demands for money (including taxes or penalties) or service or for any allegation of a breach in rendering or failure to render any Service performed or which ought to have been performed. Claims also includes patent, trade secret, copyright, or other intellectual property right claims, claims connected to Equipment including infringement of Software, costs, penalties, fees and expenses (including legal and professional fees, charges or expenses);

“**Commencement Date**” means the date of the commencement of the Service as set out in Schedule 1;

“**Completion Date**” means the date of the completion of the Service as set out in Schedule 1;

“**Confidential Information**” means the terms of this Agreement as well as any information or Data disclosed which: (i) if in tangible form, is marked clearly as proprietary or confidential; (ii) if oral, is identified as proprietary, confidential, or private on disclosure; or (iii) any other information, which is not in the public domain, which upon receipt should reasonably be understood to be confidential, provided, however, that such information or data is provided under or in contemplation of this Agreement;

“**Contact**” means the Public Officer or other person appointed as the Government contact;



“**Consents**” means any qualifications, rights, permits, licenses, immigration approvals, authorisations or other consents;

“**Data**” means logbooks, records or data files used or created pursuant to a Service (including electronic storage media, Software, Source Code, any data base and data base rights, personal or personally identifiable information relating to an identified or identifiable individual, voice and data transmissions, including the originating and destination numbers and internet protocol address, date, time and duration) and other relevant data connected with the Service;

“**Documents**” means written advice, project specifications, designs, drawings, plans, specifications, reports, tenders, proposals or other information and documents, technical specifications created for or related to, the Software or Service provided by the Supplier or the Representative;

“**Equipment**” means the Supplier provided equipment including any mobile devices, hardware, Software, telephones, wiring, jacks, plates, cables, conduit, related hardware and software or any miscellaneous equipment or hardware used to provide the Service;

“**Expense**” means all expenses (including legal expenses), charges and costs (including all costs, fees, charges, fines and penalties related to travel and accommodation) and penalties;

“**Fee**” means the gross fees to be paid for the Service provided in accordance with the terms of this Agreement;

“**Best Industry Practice**” means the exercise of that degree of skill, care, accuracy, quality, prudence, efficiency, foresight and adherence to timeliness as would be expected from a professional individual or leading company within the relevant industry or business sector in Bermuda or in England;

“**in writing**” shall mean any fax, letter or purchase order on the Government’s letterhead bearing the signature of an authorised person or an e-mail emanating from the personal e-mail address of an authorised person;

“**Insurance Policies**” means an amount of not less than the minimum level of insurance

required by law or a regulatory body or that is required to cover for similar service as are provided in this Agreement or the amount as set out in Schedule 1, whichever is greater, covering you and your officers, directors, employees, agents, or subcontractors, professional negligence, errors and omissions and shall be on an “*occurrence basis*”. “The Government of Bermuda” shall be endorsed as an additional insured on the required policy or policies and the insurances afforded to the Government of Bermuda shall be primary insurance;

“**Loss**” means all losses, Claims, damages, costs, fees, charges, Expenses, disbursements, costs of investigation, litigation, settlement, judgment and interest, lost revenue, loss of opportunity to make money, loss of contracts or for the inability to fulfill customer contracts, lost or damaged data or other commercial or economic loss, whether based in contract, tort (including negligence) or any other theory of liability or other loss not limited to those contemplated at the time of entering into this Agreement and whether such loss or liabilities are direct, indirect, incidental, special or consequential, whether foreseen, foreseeable, unforeseen or unforeseeable;

“**License**” means the non-exclusive, unlimited, royalty-free right granted by the Supplier;

“**Objective**” means the targets, results and goals required by the Government;

“**Public Officer**” means any person employed by, or acting as an agent for, the Government;

“**PIPA**” means the *Personal Information Protection Act 2016*;

“**Representative**” means the person providing a Service on the Supplier’s behalf;

“**Rules**” means policies, procedures or other instructions, including policies related to bullying, harassment and sexual harassment; and health and safety rules, procedures and protocols;

“**Schedule 1**” contains details of the parties, the Fee, Term, Insurance Policies and other special conditions;

“**Service**” means the provision of all services and deliverables contemplated under this Agreement



required to provide an inmate telephone system and includes the use of any Equipment, System and Software;

“**System**” means the development of an integrated telephone system and network incorporating Software in order to provide the Service;

“**Security Procedures**” means rules and regulations governing access to, and health and safety procedures while on, Government premises; and information technology security protocols;

“**Software**” means the Supplier provided software including modified software, third party software and bespoke software used for the Equipment and the Service;

“**Source Code**” means the source code within the Software, in the language in which the Software was written, together with all Documents, all of a level sufficient to enable the Government's personnel to understand, develop and maintain that Software.

“**Term**” means the term of this Agreement as set out in Schedule 1.

2. Provision of Service

- 2.1 You agree to perform and complete a Service in accordance with and subject to these General Terms and Conditions, Schedule 1 and Appendix 1 and we agree to pay the Fee, for the Service.
- 2.2 In the event of conflict between Schedule 1, Appendix 1 and these General Terms and Conditions, the order of precedence to resolve any such conflict shall be as follows: (i) these General Terms and Conditions; (ii) Schedule 1; and (iii) Appendix 1
- 2.3 In the event that it is required and with our prior due diligence and written approval, you may appoint a Representative who shall have full authority to act and provide the Service on your behalf. Details of the Representative shall be set out in Appendix 1.
- 2.4 You are responsible for all acts or omissions of a Representative relating to a Service and for ensuring their compliance with the requirements of this Agreement.

- 2.5 You may not subcontract or outsource your obligations under this Agreement beyond using the Representative, without our prior written consent and you shall ensure that, the Representative co-operates with our employees to effectively carry out your obligations under this Agreement.
- 2.6 We may request, by notice in writing to you, the replacement of the Representative, and agreement with such request shall not be unreasonably withheld. You shall use your best endeavors to replace the Representative with another qualified individual and such replacement shall be subject to approval by us.
- 2.7 Documents: You shall provide Documents as requested or by the date as agreed between the parties and we shall have the right to take possession of and use any portions of the Documents notwithstanding any provisions expressed or implied to the contrary.
- 2.8 You acknowledge that we will be:
 - (a) relying on the Documents on the basis that they are accurate and complete in all material respects and are not misleading;
 - (b) relying on your and the Representative's skills, expertise and experience concerning the provision of the Service; and
 - (c) using your reports and any other advice and assistance provided under this Agreement.
- 2.9 Security Procedures: The Service shall be provided in such place and location as instructed by us.
- 2.10 If the Service is required to be provided on our premises or to use Government IT systems, you and the Representative will conduct yourselves in a professional and safe manner and you and the Representative shall at all times comply with and be subject to Security Procedures.
- 2.11 Failure to adhere to the Security Procedures and the requirements of this section may be considered a material breach of this Agreement and may result in termination for default.



- 2.12 We shall inform you of the Contact, i.e. whom you or the Representative shall be reporting to and who will accept the Service.
- 2.13 The Service is provided on a non-exclusive basis to us.
- 3. Government Responsibilities**
We shall disclose all information and provide reasonable and agreed computer facilities and access necessary for you to provide the Service.
- 4. Additional Service**
- 4.1 You shall be responsible to pay the Representative for the provision of a Service.
- 4.2 Additional service or variations in the Service may be required after the date of execution of this Agreement and may be performed upon our prior written approval. Such written approval shall be evidenced by a change authorisation order (“**Change Order**”) or such other written authorisation as approved and signed by the Contact or a duly authorised Public Officer. In such case, a Change Order shall be issued within a reasonable time thereafter.
- 4.3 All Change Orders are subject to the terms and conditions of this Agreement.
- 4.4 The Fee for additional service shall be agreed by us in writing prior to any additional service being performed.
- 5. Fee, Invoicing and Payment**
- 5.1 We shall compensate you the Fee for the Service, in arrears, during the Term. The Fee shall be set out in Schedule 1 and paid in Bermuda Dollars. The Fee has been calculated to take account of payroll tax and social insurance contributions that, as a non-employee, you are required to pay in full.
- 5.2 The Fee will be subject to deductions by law in the event that you have not registered as a service provider with the relevant Government department.
- 5.3 The Fee will be subject to further deductions for the following reasons:
- (a) where there has been an overpayment to you for any reason;
 - (b) if you have not delivered the Service or any part of the Service, as required;
 - (c) where we have suffered loss by your failure to follow instructions or exercise due diligence;
 - (d) if you cause damage to Government property, the value of replacement or repair of the damaged property;
 - (e) if you leave or terminate this Agreement without giving the required notice, the value of the Fee for the notice period; and
 - (f) any overpayments or advances of payment taken in excess of the Fee.
- 5.4 You shall be responsible to pay the Representative for the provision of a Service.
- 5.5 You will only be paid the Fee for the time that you provide a Service. For the avoidance of doubt, you will not be paid during any time that you do not provide Service or if you provide additional service which have not been prior approved in writing from an authorised Public Officer. In addition, you will not be paid for public holidays and in the event that you provide Service on a public holiday or provide additional service without prior written approval, such amounts will not be paid or if paid, will be deducted from the Fee, unless otherwise agreed in writing.
- 5.6 **Invoicing:** You shall provide a monthly invoice for the Service as set forth herein, with supporting documentation and itemising the following:
- (a) Your name, invoice date and invoice number;
 - (b) Change Order number, if applicable;
 - (c) Details of Service performed;
 - (d) Time and service rendered in hourly (or less than daily) increments with sufficient detail to determine appropriate expenditure of hourly efforts;
 - (e) Other supporting documentation (including copies of any invoices or receipts for reimbursable expenditures as provided for herein);
 - (f) Mailing address and the person to whom payment is to be sent or the



- banking institution and full account information for payment by wire transfer (unless such information has previously been provided to us); and
- (g) Your telephone number, fax number and e-mail address.
- 5.7 We shall pay the Fee and/or undisputed invoices thirty (30) days in arrears. We may dispute an invoice within thirty (30) days of receipt, however, we reserve the right to dispute payments, made on an invoice at any time if we suspects fraud or willful misconduct on your part (“**Faults**”). In the event that any **Faults** are discovered in relation to payments made to you, we reserve the right to recover such payments from you, at your cost (which shall include all legal and collection fees and expenses) or to set off any disputed amounts against unpaid invoices.
- 5.8 Your failure to submit a proper invoice in a timely manner may result in a delay in payment by us. You agree that we are not responsible, nor will we be liable to you or under law or equity for any interest or expenses that you may incur resulting from any delays in payment caused by your failure to comply with your obligations under this Agreement.
- 6. Expenses**
- 6.1 Neither you, nor the Representative, are allowed to incur Expenses associated with the provision of the Service without having received our prior written consent. You shall be liable for all Expenses not prior approved.
- 6.2 If prior approved, all air travel shall be at economy class, unless otherwise agreed in writing.
- 6.3 While performing the Service in or from Bermuda, the Representative may require accommodation. In the event that accommodation is required, we may assist you or the Representative in acquiring accommodation but we shall not be liable to pay for such accommodation. You shall be liable for all Expenses and utility fees (including water, telephone and other charges) incurred by residing or otherwise staying at a property of your own choosing. You agree to abide by the rules and regulations of the property owner and you shall indemnify us against any losses the property owner may suffer as a result of your or the Representative, residing or staying at that property.
- 6.4 Except for the Fee and any approved Expenses, no other amounts are payable to you. We may set off any amounts owed by you to us against any Fees or Expenses.
- 6.5 We shall pay the Fee and approved Expenses by direct transfer into your bank account. It is your responsibility to inform us of your current contact and bank details in order that we can contact and make payment to you.
- 6.6 Without prejudice to Section 5.1, we reserve the right to refuse to pay an invoice in the event that the invoice is presented six (6) months after the time when it should have been presented for payment.
- 7. Taxes**
- 7.1 You shall be responsible to register with the appropriate department of the Government in order to pay for all taxes associated with the provision of a Service, including but not limited to payroll tax and social insurance contributions (“**Taxes**”) and you consent to us deducting due or outstanding Taxes from the Fee on your behalf, at our option. Your Tax numbers shall be out in Schedule 1.
- 7.2 In the event that we have not made deductions on your behalf, you shall provide us with proof of payment of amounts due to us such as any Taxes and all other receivables to us, prior to you receiving your final payment. In the event that you do not provide proof in writing, we shall have the right to deduct any outstanding amounts owed, including any Taxes, from final payment of the Fee.
- 8. Representations and Warranty**
- 8.1 You represent and warrant that you and the Representative, will perform all activities relating to the Service:
- (a) in accordance with Best Industry Practice and in a professional and lawful manner;
- (b) if applicable, using appropriately



- skilled and experienced Representatives whose identity, address and right to live and work in Bermuda and (to the maximum extent permissible) whose absence of relevant criminal records has been verified;
- (c) in strict accordance with the standards and timelines set out in Schedule 1 or Appendix 1, free of defects, errors or faults, in order to meet the Objectives of this Agreement; and
- (d) in accordance with applicable law including PIPA; and Rules.
- 8.2 You represent and warrant that:
- (a) upon installation, the Equipment will be compatible with existing equipment and software on our systems and the Equipment will meet all the technical documentation and requirements required to operate the Service in accordance with our requirements and objectives; and
- (b) you have the right to license all intellectual property rights in a Service, Software and Documents, to us.
- 8.3 You represent and warrant that you are not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on your ability to perform your obligations and you will notify us immediately if you have any actual or potential conflict of interest which might affect your ability to provide the Service.
- 8.4 You represent and warrant that this Agreement is executed by you or by your duly authorized Representative and that you have obtained all required authorizations and capacity in order that you can fulfill your obligations.
- 8.5 You declare that you are in possession of all Consents necessary for the provision of a Service and you will maintain such Consents at all times while providing the Service.
- 8.6 You shall procure the benefit of any warranties or guarantees in respect of goods and materials you supply to us and provide copies of such warranties or guarantees.
- 8.7 You declare that all payments to us, including but not limited to, taxes and social insurance, are current.
- 8.8 You shall provide information or sign any other agreements necessary or as requested by us, in order that either you or us can fulfill their obligations under this Agreement.
- 8.9 You represent and warrant that a Service does not infringe or misappropriate any patent, copyright, trade secret or other intellectual property right of a third party or breach of any applicable law.
- 8.10 You represent and warrant that you are fully satisfied as to the scope and nature of the Service and of your obligations under this Agreement and that you have the corporate power and authority to enter into, and perform your obligations under, the Agreement.
- 9. Remedies**
- 9.1 If the Service does not conform to the representation and warranty as set out in this Agreement, you shall, at your Expense, use all reasonably commercial efforts to correct any such non-conformance or non-availability promptly, or provide us with an alternative means of accomplishing the desired performance.
- 9.2 Without prejudice to any other rights available to us, you shall, at your Expense:
- (a) repair or replace Equipment where the Equipment is damaged as a result of your, or the Representative's negligence, error, omission or willful misconduct in providing the Service.
- (b) if the Documents are inaccurate or misleading or the Service are not performed in accordance with this Agreement, then we, in our sole discretion, may:
- (i) require correct Documents;
- (ii) require, in whole or in part, the Service to be re-performed during the Term or within six (6) months of the Completion Date;
- (iii) carry out an assessment of the value of the defective Documents



- or a Service and deduct that the value from amounts that we are required to pay you; or
- (iv) obtain Documents or a Service from another service provider and you will be required to pay all amounts paid by us in obtaining alternative Documents or a Service from another service provider to make good the defective Documents or Service.
- 9.3 Without prejudice to any other rights available to us, we may, at your Expense:
- (h) repair, replace or otherwise fix the Service where the Equipment is damaged as a result of your, or the Representative's negligence, error, omission or willful misconduct; or
- (i) obtain the Service from another service provider and terminate this Agreement.

10. Progress Report

- 10.1 If required, you shall submit progress reports in connection with the Service ("**Report**") on at least a monthly basis, or as we may require. The Report shall include a summary of the activities and accomplishments during the previous reporting period.
- 10.2 The Report will also include year-to-date totals for payments received and work completed (expressed in BMD\$).
- 10.3 Any decisions and/or actions required of us during the upcoming reporting period(s) should be included in the Report. The specified date for submission of the Report for the reporting period shall be determined by us.

11. Inspection and Approval of Service

- 11.1 We shall at all times retain the right to inspect a Service provided by you or the Representative and you consent to visits to your premises in order to inspect a Service or Documents and we shall have the right to review, require correction or additional follow up, if necessary, and accept or reject the Service and any Documents submitted by you or the Representative.
- 11.2 You shall make any required corrections promptly at no additional charge and

return a revised copy of the written work product to us within seven (7) days of notification or a later date if extended by us. In the event that you are required to implement changes with respect to your performance of Service, such change shall be implemented within a reasonable time, as determined by us, in consultation with you.

- 11.3 Your failure to proceed with reasonable promptness to make necessary corrections shall be a default. If your corrected performance or written work product remains unacceptable, we may terminate this Agreement, reduce the Fee and/or reject the hours submitted in connection with a Service, to reflect the reduced value of a Service received.

12. Time of the Essence

- 12.1 You are responsible for managing time in order to complete your obligations under this Agreement and shall complete any portion or portions of a Service in such order as we may require rather than providing a Service during a specified amount of time. You recognise that providing the Service outside of Business Days may be necessary in order to fulfil your obligations and responsibilities without additional compensation of any kind.
- 12.2 We shall give due consideration to all Documents submitted by you or the Representative, and shall make any decisions which are required to be made in connection therewith within a reasonable time so as not to delay the progress of the Service.

13. License

- 13.1 You grant us a License for the Software and Documents, to enable us to use Equipment and a Service.
- 13.2 You retain title and property rights to the Software. Unless specifically stated in the Agreement, we neither own nor will acquire any right of ownership to any Software or Equipment, including, but not limited to, copies, and any related patents, copyrights, trademarks, or IP addresses assigned to you.



- 13.3 The License granted herein includes all major releases, updates or upgrades of Software.
- 13.4 You shall ensure the continued compatibility of the Equipment with all major releases, updates, or upgrades of any Software.
- 13.5 In the event you are not able to support Software update, upgrade, version or new release that changes major functionality and is not compatible with the Equipment or a Service, you shall use your best efforts to resolve such issues and to provide optimal functionality of the Equipment or the Service.
- 13.6 If required by us, you shall maintain and keep current human and computer readable copies of the Source Code and you shall provide us with copies of all Source Code.
- 14. Indemnity, Limitation of Liability, Insurance, Force Majeure and Business Continuity**
- 14.1 Indemnity: You shall indemnify, keep indemnified and defend us against:
- (a) any Claim or Loss arising from any breach of this Agreement by you or the Representative; or
 - (b) any Claim or Loss arising from a third party as a result of negligent act, errors, omission or willful misconduct by you or a Representative.
- 14.2 We may satisfy such indemnity (in whole or in part) by way of deduction from any payment due to you.
- 14.3 If the use of a Service is enjoined as a result of a Claim or Loss, in addition to the indemnity set forth above, you shall (at your Expense): (i) obtain for us the right to use the infringing Service; (ii) modify such Service or Software in a manner that does not infringe any third party intellectual property rights; or (iii) substitute equivalent software or a service that are acceptable to us and does not infringe any third party intellectual property rights.
- 14.4 No Liability: In no event shall we or a Public Officer be liable to you for Loss.
- 14.5 Limitation of Liability: Without limiting the provisions of this Section, either party's maximum aggregate liability to the other party, for all Claims or Loss in connection with this Agreement or the performance thereof arising during its entire term shall be limited to the Fee paid to you under this Agreement for the six (6) months immediately preceding the date the on which the latest Claim or Loss first arose, or the coverage limits of any insurance policy that may be required to respond to a Claim or Loss, whichever is the greater.
- 14.6 Nothing in this Agreement shall exclude or limit any liability for wrongful use of Confidential Information, misrepresentation, fraud, willful misconduct or any liability which cannot be lawfully limited or excluded and you shall accordingly maintain in full force and effect during the Term, the Insurance Policies.
- 14.7 All Claims against us must be commenced in court within one (1) year after the cause of action has accrued or the act, omission or event occurred from which the Claim arises, whichever is earlier, without judicial extension of time, or said Claim is barred, time being of the essence.
- 14.8 Insurance: If required, you shall maintain Insurance Policies in the minimum amounts set forth in Schedule 1. The Insurance Policies shall be evidenced by delivery to us of certificate(s) of insurance executed by the insurer(s) listing coverages and limits, expiration dates and terms of the policy or policies and all endorsements, and upon request a certified copy of each policy including all endorsements. Failure to provide us with acceptable proof of insurance shall entitle the Government to either obtain or maintain the Insurance Policies on your behalf at your sole cost and expense, or to terminate this Agreement without prejudice to any other rights or remedies in connection we have under this Agreement.
- 14.9 You shall be responsible for the payment of all deductible amounts on the Insurance Policies and upon our request, you supply us with copies of such Insurance Policies and evidence that the relevant premiums



- have been paid.
- 14.10 In the event that you have not paid Insurance Policy premiums, upon signing this Agreement, you consent to the Government either deducting the Insurance Policy premium from the Fee, or otherwise making such Insurance Policy premium payment, on your behalf and recouping such payment from you, at our sole discretion.
- 14.11 At our sole option, all monies payable under the Insurance Policies shall be applied in making good or recouping expenditure, loss or damage suffered or incurred by us as a result of you or a Representative providing a Service.
- 14.12 You shall notify us forthwith of any changes to any of the Insurance Policies, or of any claims or potential claims which have arisen to which the insurer(s) of the above policy or policies may be required to respond.
- 14.13 The policy clause "*Other Insurance*" or "*Excess Insurance*" shall not apply to any insurance coverage currently held by The Government of Bermuda, or to our Self-Insured Retentions of whatever nature.
- 14.14 If you subcontract any Service, you shall ensure that each subcontractor maintains insurance coverage with policy limits of at least the amounts stated herein.
- 14.15 The insurance requirements set forth in this Agreement do not in any way limit the amount or scope of your liability under this Agreement. The insurance coverage amounts indicate only the minimum amounts of insurance coverage that we are willing to accept to help ensure full performance of all terms and conditions of this Agreement.
- 14.16 Waiver of Rights of Recovery: You hereby waive all rights of recovery against us which you may have or acquire because of deductible clauses in or inadequacy of limits of the Insurance Policies or any policies of insurance that are secured and maintained by you.
- 14.17 Force Majeure: Neither of the parties shall be liable for failure or delay to perform obligations under this Agreement to the extent that this delay is caused by flood, fire and other event beyond its reasonable control (not caused by its own act or negligent omission) ("**force majeure**") but each party shall use its best efforts to perform its obligations notwithstanding the force majeure event.
- 14.18 Business Continuity: Where applicable, you shall maintain, test and where appropriate implement business continuity procedures to reduce the risk of force majeure impacting the provision of the Service and upon request, provide such evidence to us.
- 15. Non-Solicitation**
- During the Term and for a period of twelve (12) months after expiration or termination of this Agreement, you shall not solicit (whether directly or indirectly) any of our employees or consultants who was involved in the performance or receipt of a Service, unless otherwise agreed to in writing by us.
- 16. Non-Disclosure of Confidential Information**
- 16.1 You must ensure that all Confidential Information held by you is protected against unauthorized access, use, copying or disclosure. You acknowledge that the improper use, copying or disclosure of such information could be unlawful.
- 16.2 You will comply with our instructions if you have access to personal data as a result of providing the Service.
- 16.3 You may disclose information related to this Agreement to your personnel on a '*need to know*' basis as required for the performance of the Service. You will keep strictly confidential any other Confidential Information and you shall only use such Confidential Information as required for providing a Service (and no other purpose).
- 16.4 A breach or anticipated breach of the confidentiality provisions of this Agreement, will cause either party irreparable harm and each party agrees that monetary damages alone may not be an adequate remedy and, accordingly,



- either party, may, without prejudice to any other rights or remedies that it may have, be entitled, without proof of special damages and without the necessity of giving an undertaking in damages, to seek an injunction or specific performance together with all other remedies as may be available in law or equity.
- 16.5 If either you or a Representative fail to abide by the confidentiality provisions at any time, then such failure shall constitute a material breach of this Agreement and you shall pay us the equivalent of the Fee paid to you for a three (3) month period as liquidated damages, in addition to any attorney's fees and costs of enforcement. You and the Representative shall be jointly and severally liable to us under this section.
- 17. Ownership, Intellectual Property and Copyright**
- 17.1 We shall own all Documents provided in accordance with this Agreement.
- 17.2 Intellectual Property: You represent and warrant to us that you or the Representative have created the Documents for and on our behalf or have obtained a written and valid Consent and assignment of all existing and future intellectual property rights in the Documents.
- 17.3 Documents created under this Agreement shall be original works created by you or the Representative and shall:
- (a) not include intellectual property owned by or licensed to a third party except for intellectual property which you have the right to use (including the right to use such intellectual property for the purposes of this Agreement); and
 - (b) not subject us to any claim for infringement of any intellectual property rights of a third party.
- 17.4 You shall do all things necessary to assign to us all existing and future intellectual property rights in the Documents embodying such rights to the fullest extent permitted by law. Insofar as they do not so vest automatically by operation of law or under this Agreement, you shall hold legal title in such rights on trust for us.
- 17.5 You agree that all Documents and other works created in full or in part by you or a Representative for the Service may be maintained, changed, modified and/or adapted by us without the consent of either you or the Representative. Notwithstanding the foregoing, you and us may agree in writing that certain identified Document's or designated intellectual property rights will remain with you.
- 17.6 Copyright: Documents and a Service and corresponding copyright and other intellectual property in the Documents shall belong us, which may utilise those Documents freely (including by adapting, publishing and licensing).
- 17.7 Documents or Confidential Information may not be used or copied for direct or indirect use by you or a Representative after expiry or termination of this Agreement without our express written consent.
- 17.8 We acknowledge that you and the Representative possess knowledge and expertise relating to the subject matter of a Service ("**Supplier Know-How**"), which may include intellectual property rights in certain pre-existing tools and materials used by you in performing a Service. Nothing in this Agreement is intended to transfer us any rights in the Supplier Know-How, which shall remain your property.
- 17.9 To the extent that any Supplier Know-How is included in any Documents and you hereby grant to us a perpetual, unlimited, royalty-free, non-exclusive right and license to use and reproduce the Supplier Know-How to the extent reasonably necessary to achieve the Objective.
- 17.10 Government logo: You may not use Government's name or logo for any publicity or marketing purposes, unless consent for such use is provided in writing.
- 18. Term, Termination and Suspension**
- 18.1 This Agreement shall be effective from the Effective Date for the Term. The Service shall commence on the Commencement



- Date and continue until the Completion Date, whereupon this Agreement shall expire unless terminated earlier in accordance with its terms.
- 18.2 You shall not commence any additional service in the event of notification of termination of this Agreement, however, in the event that service is provided to us beyond the Completion Date, the terms and conditions of this Agreement shall continue on a day-to-day basis terminable without cause upon twenty-four (24) hours prior written notice by either party to the other.
- 18.3 Either party may terminate a Service or this Agreement, in part or in whole, during the Term upon prior written notice without cause in accordance with the termination notice period as set out in Schedule 1.
- 18.4 We may terminate this Agreement at any time based upon your default of your obligations under this Agreement. We, in our sole discretion, may provide you with a notice to cure (“**Cure Notice**”) the breach that would otherwise amount to a basis to terminate this Agreement as a result of your failure to fulfill your obligations hereunder. You shall respond to any such Cure Notice within a reasonable time or within such time as provided therein, and you shall either cure the specified breach or provide assurances to cure the same which we, in our sole discretion, deem adequate.
- 18.5 Either party may terminate this Agreement immediately, if the other party:
- commits an irremediable breach; or
 - is subject to a change of control or chooses to discontinue its business; or
 - if the other party has a lack of funding or becomes or is deemed insolvent; or
 - if the other party’s performance is affected by a force majeure event which lasts seven (7) days or more.
- 18.6 In the event of termination of this Agreement, all Fees then due and payable shall be paid to you.
- 18.7 Upon expiry or termination of this Agreement, you shall return all Government property or information or you shall irretrievably delete, as commercially practicable as possible, all Confidential Information, stored in any way using any device or application and all matter derived from such sources which is in your possession, custody or power and provide a signed statement that you have fully complied with your obligations under this section, save for any back-up required by law or as required in accordance with your record retention policy.
- 18.8 Upon expiry or termination of this Agreement, you shall provide us with all such assistance as may be reasonably necessary in order to end the relationship in a manner which causes the least inconvenience to us including assisting with the transfer of Data.
- 18.9 We may temporarily suspend a Service hereunder and shall confirm such instruction in writing to you.
- 18.10 Upon any such suspension, we shall pay all Fees and Expenses up until the time of such suspension of a Service. If, following suspension of a Service, there is no resumption within six (6) months, this Agreement may be terminated by you, and we shall make a payment of all outstanding Fees and Expenses in accordance with this Agreement if such amounts are due.
- 18.11 We may issue a written order to resume the provision of the Service within six (6) months of suspension in accordance with the terms and conditions of this Agreement.
- 18.12 The rights arising under this termination section represent your sole remedy and excludes common law rights to terminate and claim damages for any Loss you may suffer under this Agreement.
- 19. Data use and Transfer**
- 19.1 Upon our request and prior to or within sixty (60) days after the effective date of termination, you will make available to us a complete and secure (i.e. encrypted and appropriately authenticated) file of Data in a format to be agreed at the time including all schematics and transformation definitions and/or delimited text files with documented, detailed schematic



- definitions along with attachments in their native format.
- 19.2 You will be available throughout this transfer of Data period to answer questions about all elements of the Data transfer process so that we may fully access and utilize the transferred Data.
- 19.3 If required, you shall manage the transfer of all Data and technical assets to a service provider of our choice, at your Expense.
- 19.4 You shall guarantee that the Source Code shall be fully source controlled with a complete history of all changes. The Source Code shall adhere to professional standards in terms of quality and organisation where necessary to allow our personnel to access and use the Source Code.
- 20. General**
- 20.1 Any notice or other communication required to be given under this Agreement shall be duly given or served if it is in writing (for the purposes of this section, a notice shall be deemed to be in writing if it is in the form of a printed or hand-written letter or other document, or in the form of an e-mail message), signed and delivered by hand or sent by prepaid recorded post to the address of the party as first set out above (or such other address as is notified in writing to the other party from time to time); or sent by e-mail to the e-mail address of the party as provided by that party (or such other e-mail address as is notified in writing to the other party from time to time).
- 20.2 Where this Agreement refers to past or current obligations, this Agreement applies retrospectively from the Effective Date.
- 20.3 This Agreement together with any documents referred to in it supersedes, extinguishes and replaces all previous agreements, promises, assurances, warranties, representations and understandings, whether written or oral including whether in invoices, emails or otherwise between the parties relating to a Service and is the complete agreement between the parties.
- 20.4 Any amendments to this Agreement shall be made in writing and signed by each party.
- 20.5 You may not assign or transfer any rights or obligations under this Agreement (for example assigning or factoring invoices) without our prior written consent. Any such transfer by you in breach of this section shall be void and be an irremediable material breach of this Agreement. We may transfer our rights and obligations under this Agreement.
- 20.6 You will be an independent contractor and nothing in this Agreement shall render you an employee, worker, agent or partner of the Government and you shall not hold yourself out as such.
- 20.7 No one other than a party to this Agreement, their successors and permitted assigns, shall have any right to enforce any of its terms.
- 20.8 The doctrine of *Contra Proferentem* shall not be applicable in this Agreement.
- 20.9 Expiry or termination of this Agreement in any manner shall not release you or a Representative from any liability or responsibility with respect to any representation or warranty. Sections related to indemnification, limitation of liability, non-disclosure of information and intellectual property shall survive termination of this Agreement.
- 20.10 Waiver of any breach of this Agreement must be in writing to be effective and shall not be a waiver of any subsequent breach, nor shall it be a waiver of the underlying obligation. Should any court determine that any provision of this Agreement is not enforceable, such provision shall be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable.
- 20.11 You consent to us processing data relating to you for legal, administrative and management purposes. We may make such information available to those who provide a service to us (such as advisers and payroll administrators), regulatory authorities and governmental or quasi-



governmental organizations including those outside of Bermuda.

21. Governance

- 21.1 You shall inform us promptly of all known or anticipated material problems relevant to delivery of the Service.
- 21.2 You agree to provide us (and, if we request in writing, our auditors and competent regulatory authorities) with full information on the provision and delivery of a Service in an open and cooperative way and attend our meetings to discuss the Service and this Agreement. We may disclose any information relating to this Agreement to a regulator or auditor.
- 21.3 You shall provide details of all persons with an ownership stake in the Supplier, which shall include persons who are your direct shareholders as well as person who are shareholders of other companies in which you hold an ownership stake.
- 21.4 Such statement shall be provided at least annually or if there is any change in your interests.

22. Anti-Corruption

- 22.1 You represent, warrant and covenant that, in connection with activities performed under this Agreement or on our behalf, you have not and will not offer, promise, authorise, pay, or act in furtherance of an offer, promise, authorization, or payment of anything of value, directly or indirectly, to a Government Official (as hereinafter defined), political party or party official, candidate for political office, or official of a public international organisation, in order to obtain or retain business, to secure an improper advantage or benefit of any kind or nature to person(s) related, associated or linked to the Government Official, or to secure or influence discretionary action, inaction or a decision of a Government Official(s). For purposes of this Agreement, the term “Government Official” shall mean and include any official, public officer or employee of the Government, as well as an official or employee in the judicial, legislative, or military, anyone acting in an official

capacity of the Government, or any immediate family member of such persons.

- 22.2 You represent, warrant, and covenant that you have complied and will comply with The Bribery Act 2016 and all other applicable laws of any relevant jurisdiction in connection with the performance of your obligations under this Agreement. Without limiting the generality of the foregoing, you represent, warrant, and covenant that you have not and will not take any action that would cause the Government, or anyone acting on its behalf to violate or be subjected to penalties under The Bribery Act 2016, or the applicable anti-corruption laws of other countries.
- 22.3 You acknowledge and agree that in the event that we believe, in good faith, that you have breached this section, we shall have the right to immediately terminate this Agreement and any or all other agreements that we may have with you.
- ## 23. Retention of Confidential Information, Records and Audit
- 23.1 You will retain any part of, or all, Confidential Information during the Term and following expiry or termination of this Agreement until all appeals processes are complete in the event of any litigation in connection with the Service. We will have full access to and the right to examine any Documents, at any time during this period. We must be notified, in writing, prior to any of the Documents being destroyed.
- 23.2 You shall retain all records pertinent to this Agreement for a period of three (3) years following expiration or termination hereof.
- 23.3 You shall establish and maintain books, records, and documents (including electronic storage media) in accordance with Canadian Generally Accepted Accounting Principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the Government, including all receipts, invoices, payroll records and/or other documentation used to substantiate requests for payment hereunder. At any



- time or times before final payment and for three (3) years thereafter, we may cause your records to be audited by a duly authorized Public Officer. Records required to resolve an audit shall be maintained for a period of not less than three (3) years following resolution of the audit or any arbitration or litigation arising hereunder.
- 23.4 We reserve the right to conduct periodic visit your premises to perform audits after the commencement of this Agreement to ensure continued compliance.
- 23.5 Duly authorised Public Officers shall have full access to and the right to examine any Documents and any of the records pertinent to this Agreement, at all reasonable times for as long as such records are required to be retained hereunder.
- 23.6 You shall include the aforementioned audit and record keeping requirements in all subcontracts and assignments, if any, made in accordance with this Agreement.
- 24. Electronic Communication**
Communications may take place by email. The internet is not secure and messages sent by email can be intercepted. Each party shall use best efforts to keep its security procedures current and all communications by email secure.
- 25. Governing law**
This Agreement is subject to Bermuda law and you and us submit to the exclusive jurisdiction of the Bermuda courts in relation to this Agreement.
- 26. Dispute Resolution**
- 26.1 Where the parties are unable to resolve a dispute in accordance with this Agreement the parties, upon agreement, may submit such dispute for resolution by arbitration. The tribunal shall consist of a sole arbitrator appointed by agreement between the parties or failing such agreement by the Appointments Committee of the Chartered Institute of Arbitrators, Bermuda Branch. The procedure to be followed shall be that as laid down in the *Bermuda International Conciliation and Arbitration Act 1993* and the UNCITRAL Arbitration Rules presently in force. The place of arbitration shall be Bermuda and Bermuda law shall apply. The language of the arbitration shall be English.
- 26.2 The decision and award of the arbitrator shall be delivered within three (3) months of his or her appointment, unless otherwise agreed between the parties, and shall be final and binding on the Parties and enforceable in any court of competent jurisdiction. Nothing in this section prevents or in any way restricts either party from seeking specific performance, injunctive relief or any other form of equitable remedy. The parties shall continue to perform their respective obligations during the dispute resolution process set out in this section, unless and until this Agreement is terminated in accordance with its terms.
- 26.3 The costs of the arbitration, including administrative and arbitrators' fees, shall be shared equally by the parties and each party shall bear its own costs and attorneys' and witness' fees incurred in connection with the arbitration unless the arbitrator determines that it is equitable to allocate such costs and fees differently and so orders in rendering judgment.
- 26.4 In rendering judgment, the arbitrator may not provide for punitive or similar exemplary damages.
- 26.5 The arbitration proceedings and the decision shall not be made public without the joint consent of the parties and each party shall maintain the confidentiality of such proceedings and decision unless otherwise permitted by the other party, except as otherwise required by applicable law or statutes.



IN WITNESS WHEREOF, the parties, have read and agree to the terms and conditions of this Agreement on the Effective Date.

SIGNED by a duly authorised officer for and on behalf of the Government	Signature:
	Print Name:
	Title:
SIGNED by the Supplier or a duly authorised officer for and on behalf of the Supplier	Signature:
	Print Name:
	Title:

**SCHEDULE 1**

This schedule and appendix are incorporated into the Agreement. Capitalised terms used but not defined in this schedule and the appendix will have the meanings given to them in the Agreement.

1. **Objective:** We require the Supplier to provide the Service, as detailed below, in an efficient and cost effective manner, in accordance with this Agreement.

2. **The Government**

Ministry:			
Department:			
Address:			
Government Contact:			
Tel No.:		Mobile No.:	
Email address:			

3. **Supplier and Service specific conditions:**

Supplier Name:			
Address:			
Home Tel:		Mobile No.:	
Email address:			
Commencement Date:			
Completion Date:			
Termination Notice Period:		30 days	
Hourly Fee payable in arrears:		N/A	
Special Conditions related to the Fee:		See Section 4.1 of this Schedule	
Payroll Tax #:		Social Insurance No.:	
Insurance Coverage:		BMD\$300,000 Professional Liability	



4. SERVICE PROVIDED BY THE SUPPLIER

4.1 SPECIFIC REQUIREMENTS

- (a) The following are the requirements for the services, including equipment, to be provided under this Agreement. Advanced or alternative technology that provides at least the levels of the specific functionality of the equipment and services described may be proposed with a description of how the alternative(s) meets or exceeds the specified requirements.
- (b) All Service shall be provided at no cost to the Government of Bermuda including the Department of Corrections (“DOC”).
- (c) All revenue generated from use of the System will be provided to you as the fee for our use of the System and the Service provided under this Agreement.

INMATE TELEPHONE SYSTEM

4.2 Contractor Security Checks

- (a) All your Representatives working at any of our facilities must pass and maintain, to our satisfaction, a security and background check performed by, or on behalf of, DOC (“Clearance”).
- (b) Any of your employee who fails to pass, divulge information, or comply with the background process will be prohibited from entry into any of our facilities on behalf of or to perform Service for you.
- (c) If a Clearance is refused for any of your Representatives, you will be notified and you shall provide a replacement Representative suitable to us.
- (d) You must submit the documentation for all Representatives 48 hours prior to required admittance to perform any work to allow adequate time for security and background checks to be performed by your Representatives.

4.3 ITS Operations

- (a) The System must operate on its own network. At no time during the Agreement shall you use the System on our network.
- (b) Your Equipment shall be properly maintained and serviced, throughout the life of the Agreement.
- (c) Your Representatives shall work with our staff as required or directed by us.
- (d) You shall obtain our approval of all systems and applications before installation. We maintain the right to decline, in our sole discretion any proposed systems, modifications and/or applications. You shall remain responsible and liable for all Expense related to the System.
- (e) A single point of contact with you, via telephone number and an e-mail address, must be provided and maintained by you for reporting all ITS queries.
- (f) You shall retain total liability for the System. At no time will we be responsible or accept liability for any of your Equipment.
- (g) Representatives are also bound and accountable under the same obligations as those set out in this Agreement.
- (h) You must maintain the System software at the latest approved operational release level.
- (i) You shall adjust the number of inmate telephones or relocate existing telephones, as needed, at no cost to us.



- (j) Should any on-site workstation used to access the administration functions of the ITS system “crash” or otherwise become disabled the central system must continue to function normally, maintaining full control of inmate telephones according to preprogrammed settings.
- (k) You must ensure that the ITS is available 24/7 each day of the year excluding downtime for maintenance.

4.4 Installation

- (a) You shall provide a comprehensive System solution that must be reliable, stable, and easy to use.
- (b) You shall be responsible for all costs associated with the System including costs associated with developing and maintaining the software and hardware. You shall also be responsible for the costs of decommissioning and removing the hardware and software required for the ITS system.
- (c) Payment for installing all physical plant requirements (power, security, data, cabling, physical space, HVAC, etc.) is your responsibility, unless otherwise specified in writing by us.
- (d) We shall retain ownership of any cabling, wiring, or conduit installed by you in the event of termination of this Agreement for any reason, unless we specifically request that you remove any or all of the installed cable, wiring or conduit, which shall be done at your Expense.
- (e) You must furnish and install all Equipment in compliance with all applicable codes, and that all permits or licenses required for installation will be obtained without cost to us.
- (f) You shall adapt the System to use Personal Identification Numbers (“PINS”) for each inmate to access the system
- (g) A web-based platform shall be provided by you to allow our personnel to access the System from any mobile device.
- (h) You shall not limit the number of logins assigned to our personnel.
- (i) System levels of security should include a “Super User” with full admin rights, “Managers Access” with limited access to input specific data and account creation and “Intelligence Access” for the ability to listen to calls, exporting recordings and running reports.
- (j) You are solely responsible for all moves, add-ons, changes to and new installs of the Equipment that occur during the Term.
- (k) All System modifications must be pre-approved by us and once approval is given, you shall proceed with the modifications to the System at your own Expense.
- (l) You must provide transportation to and unloading of Equipment at our designated location.
- (m) We will not be liable for any Expense related to packaging, delivery, or storage of equipment or materials required for proper implementation of the required services.
- (n) All packing crates, boxes, paper, packing materials, and all other such extraneous material shall be removed from the premises by you at your Expense, during and after installation.
- (o) You shall provide us with “as built” documentation and diagrams listing all system components, network layout, etc. required for the System.
- (p) The System shall include (4) on-site personal computer workstations for DOC Intel Division that provides the following:
 - i. access to the System’s centralized controls and databases;
 - ii. speakers for real time monitoring and replay of recorded conversations;



- iii. a CDRW drive for transfer of call data and call recordings to CDs; and
 - iv. a compatible printer for call data reporting at each facility.
- (q) The on-site administration workstations must exist only as a portal to the centralized control system, meaning that underlying ITS System functionality and inmate telephone service must operate completely independent of any administration terminal.

4.5 Scheduling

- (a) You shall plan, finance, and implement the implementation and testing of all Equipment and software relative to the new System, without impacting our normal daily operation.
- (b) You shall submit a detailed schedule to us for approval that includes plans and schedules for installation and operation of the System. The schedule shall be prepared and implemented to minimize impact to our facility operations.
- (c) The ITS System shall become fully operational upon the successful completion of the System integration testing and acceptance by us, including review and approval by our Intelligence Unit Manager and IDT. System integration and acceptance test criteria shall include: telephones, web portal, redundancy, payment processing, call handling (blocking, etc.) account creation, administrative functions and backup and disaster recovery:
 - i. Telephones: All Telephones shall be tested and verified as operational and without deficiencies.
 - ii. Administrative Functions: There shall be a test run of administrative functions including DOC passwords and access, the Payment Platform, reports and analytical and query tools.
 - iii. Phone Numbers: A test to verify that the call list, including blocked, confidential, pre-programmed, and others as identified by us as being fully functional.
 - iv. Backup and recovery – You must demonstrate the backup routine and simulate a disaster recovery.

4.6 Back Up and Disaster Plans

- (a) You must have a detailed Back-Up or Redundancy Plan, as well as a Disaster Recovery Plan.
- (b) You must have clear processes, policies, and procedures for continuation of the services consistent with a natural or human-induced disaster.
- (c) You must perform periodic roll-swap from production system to backup system at least once per year.

5. PAYMENT AND BILLING

5.1 Payment Platform.

- (a) You must have a payment platform that will interface with the System (“**Platform**”).
- (b) The Platform must meet the following minimum criteria:
 - i. Accept funds for inmates, including funds from family and friends, for placement in an inmates account established and operated by Contractor for use by an inmate and linked to the inmates ITS PIN.
 - ii. Record who placed funds on the inmate’s account capturing amount, date and name of payee.
- (c) You shall have a procedure for releasing any funds in an inmate’s accounts to be paid to the inmates immediately upon receipt of notification that an inmate is being released.



- (d) Any funds remaining in an inmate's account shall be fully refunded to the inmate and shall not be transferable to an inmate remaining in custody.

5.2 Billing related to the System

- (a) You are responsible for the all financial transactions associated to an inmate's account and calls in accordance with regulated recorded and approved tariff rates and all conditions of the associated telecommunications contract.
- (b) Revising and updating billing and collection practices to comply with changes in law, including regulations, and with court orders and decisions is your responsibility.
- (c) You shall provide the payment options for all calls.
- (d) You shall not bill inmates for incomplete calls (e.g., network intercept recordings, busy signals, no-answers, etc.).
- (e) All payments and charges must be direct to the inmate's account without our involvement whatsoever.
- (f) You must inform us of any rate changes at least 4 weeks prior to such rate changes coming into effect.
- (g) You shall be responsible for any financial losses due to fraudulent or other unauthorised billing and/or uncollectible call charges.
- (h) You shall supply a calling rate plan.

6. PHONE CALLS

Telephones must include, at minimum, all of the following features:

6.1 Calling

- (a) Permit one-way outgoing calls billed to the inmate's account.
- (b) The System must have the capability to record and save the inmate's name during the inmate's first call attempt, to be automatically retrieved by the System for subsequent calls.
- (c) Provide an automated operator telephone system for all calls.
- (d) If required, the automated operator shall be designed for use by the hearing impaired and in accordance with all applicable laws. You shall provide fixed hearing impaired telephones based on the needs of each facility, as determined by us.
- (e) Provide international call services to any destination.
- (f) Provide call services to our approved numbers such as the Human Rights Commission, Attorneys and the Ombudsman Office and other numbers as determined by us at no Expense to us, the caller or the recipient of the call.
- (g) The call set-up and acceptance process must be completed within 30 seconds or less (from off-hook to call connection/rejection). The call length timer shall not start until positive acceptance of the call is made by the receiver.
- (h) The System shall support a programmable maximum allowed call time length (30 min in common areas) with time a 2 minute remaining warning message, heard by both parties, prior to the call termination.
- (i) The System shall not allow chain dialing and secondary tones, "hook switch dialing," and other fraudulent or unauthorised activities. Inmates shall be required to hang up before dialing a new number.



- (j) The System shall:
 - i. Mute the inmate's ability to speak to the call recipient until the call is accepted;
 - ii. Not allow the inmate to hear the recipient until the call is accepted.

6.2 Call Blocking

The System must:

- (a) Block all three-way calling, conference calling, and call forwarding.
- (b) Permit a called party to block all future calls from the respected inmate's PIN from any of our facilities.
- (c) Block calls to Restricted Numbers on a system-wide basis or a case-by-case basis, as directed by us.
- (d) Restricted numbers will be verified by us and programmable by our staff into the System.
- (e) You shall not delete, add or change any permitted or blocked number.
- (f) We are solely responsible for adding, deleting, blocking or restricting any outbound numbers on an inmates PIN account.
- (g) We will have the ability to add notes/comments to blocked numbers.
- (h) You shall adhere to the following:
 - i. Calls shall not be blocked due to a lack of local exchange carrier (L.E.C.) or competitive local exchange carrier (CLEC) billing agreements with you.
 - ii. The System shall not allow collect calls to be placed.

6.3 Call Security

The System must:

- (a) Flag, archive, and generate alert reports for unauthorized call attempts, including attempts to Restricted Numbers.
- (b) Provide the ability for our authorized staff to selectively monitor call activity in real time and to immediately terminate any call.
- (c) Retrieve and generate inmate unauthorized call activity logs for call periods as specified by us.
- (d) Provide for all calls to be monitored, recorded, and archived, with the exception of calls made to Unmonitored Numbers.
- (e) Phone numbers for the global list consisting of but not limited to: all attorneys, Ombudsman Office, Office of the Human Rights Commission are identified as Unmonitored Numbers.
- (f) Phone numbers for all attorneys must be verified by us and shall be programmable by our staff only.
- (g) You shall not delete, add or change any Unmonitored Number.
- (h) The System must provide sufficient security safeguards to preclude fraudulent use of the System. Such safeguards shall include, but not be limited to:
 - i. The prevention of incoming calls
 - ii. Detection and rejection of outgoing calls to Restricted Numbers and otherwise unauthorized numbers and calls; and
 - iii. Attempts to initiate 3-way calls and call forwarding.



- (i) The System shall have the capability to record the content of all telephone conversations. The recorded call must be stored for retrieval for a period of at least seven (7) years after the call is placed, and the system must have the capability to transfer the recorded calls to removable media for archiving, or review.
- (j) We must have the ability to search and access stored calls and deliver the call at the request of a pursuant court order.
- (k) Provide for automated turn on and shut off of Telephones at any time determined by us and for the immediate manual system shut off by our staff.
- (l) The System shall support a daily programmable on/off service for an individual phone, a group of phones, or by destination number.
- (m) The System shall allow multiple approved DOC staff and designees to simultaneous access the System without compromising security and prevention of unauthorized use and access to the System.

6.4 Call Tracing

The System must have the ability to locate and provide information in a simple format that can search, at minimum, using the any or all of the following criteria:

- i. Inmate P.I.N.;
- ii. Date and time;
- iii. Telephones individually or by groups;
- iv. Call type (to cell or landline);
- v. Facility and facility locations (housing units);
- vi. Number called;
- vii. Calls to any blocked number;
- viii. Call status including incomplete and complete calls; and
- ix. Geo-tracking & Locating called numbers.

6.5 Call Monitoring

- (a) The System must have call monitoring features which monitors every call made through the System except for unmonitored calls.
- (b) The System must identify calls in order to store recorded calls in a manner that identifies them so to be easily located and searched.
- (c) Call monitoring details within the recorded system shall continue to be accessible within the proposed leave behind solution (at the end of the Agreement).
- (d) The System must allow for monitoring live inmate calls without any detectable deterioration of call quality or call interruptions.
- (e) The System should allow for call monitoring without inmate or other party detection while recording, and include other call detail capabilities that can be used to aid investigations related to the detention facilities.
- (f) The System shall allow us the ability to access in process calls for monitoring and allow the monitored call to immediately be disconnected, using a secure monitoring platform. This shall include the ability for remote monitoring and disconnection.



- (g) The System shall have 100% digital call recording as a feature.

6.6 Call Restrictions

- (a) The System shall exempt Unmonitored Calls from being monitoring.
- (b) The System shall be capable of identifying specified telephone numbers as "do not monitor".
- (c) The System shall include an alert system that will detect and notify our staff of any call made to a Restricted Number, calls made by restricted individuals or log-ins that were blocked for lack of authority.
- (d) There shall be specific report capabilities for these calls.
- (e) The System shall have the ability for our staff to suspend an inmates calling privileges for a specified period of time with an expiration date.
- (f) The specified time period for restriction should self-expire at the end of the specified/defined restriction and allow the inmate to place calls.
- (g) The System shall have a dropdown field to select why the restrictions were put in place.
- (h) There must be a field to record additional information associated with the restriction.
- (i) All inmate call restriction must become active across all facilities as soon as it is applied.

6.7 Call Announcement and Instructions

The System shall provide an initial greeting and instructions to the called party that state the following:

- (a) That call is from the Department of Corrections, Inmate Facility and is subject to recording and/or monitoring.
- (b) The identity of the name of the inmate placing the call.
- (c) Provide the called party with the opportunity to accept or reject the call and to block future calls from the specific inmate placing the call using the phone keypad.
- (d) Automated call instruction/announcements shall be in English, Portuguese and Spanish and announce that the call may be recorded or monitored with active consent from the called party.
- (e) Utilize positive call acceptance and active consent.
- (f) Active consent may include pressing a keypad number, rather than just by continuing the conversation.
- (g) If there is not active consent provided by the called party, the parties will be notified that the call will be disconnected.
- (h) These instructions will not be provided for calls made to criminal defense attorneys that have been identified as Unmonitored Numbers.
- (i) During initial greeting and instructions, there is no call connection with the inmate until there is acceptance from the called party.

6.8 Call Retention

- (a) Call Recordings: The System shall retain call recordings for seven (7) years from the date the call was placed.
- (b) Extended Retention: You and the System shall retain call recordings and call data that is identified or requested by us or a Court Order to be held beyond the standard retention period. Calls to be retained maybe identified by batch or specific calls. These call recordings and/or data shall be held for the time period identified in the retention request or court order.



- (c) You shall provide us with a copy of your retention policy.

6.9 Call Playback

- (a) Multiple authorized operators must be able to simultaneously access the centralized recording database to retrieve calls for investigations without having to change or exchange recording media
- (b) You shall provide how many authorized operators can perform different or similar task/functions at the same time. We require a minimum of 4 operators.

7. TELEPHONES

- (a) All Equipment shall be provided by you at no cost or Expense to us.
- (b) All telephones shall be of rugged construction, stainless steel, or in combination with a corrosion resistant finish, and suitable for use in high use and high abuse corrections environments.
- (c) The wall mounted telephones shall be mounted to cement wall, block wall, stainless steel shrouded columns, or protected external enclosures and meet all the requirements for detention and correction grade phones.
- (d) Telephones shall be suitable for indoor and outdoor installations, have a heavy chrome metal twelve-button keypad and a handset with an armored cord and cradle.
- (e) Telephones shall be for outgoing calls only and shall not be capable of accepting coins or credit cards as payment.
- (f) Telephones shall be durable, tamper-proof, and consist of rugged steel encased housings and shockproof keypads suitable for the detention and corrections environments to minimize vandalism and destruction of property.
- (g) All handsets, ear and mouthpieces, shall be of heavy-duty construction with no removable parts, and installed in such a manner that no safety hazard is present to the user.
- (h) Telephones shall be configured with a braided steel receiver cord 18 - 24 inches in length, unless we request an alternate length.
- (i) All telephones must be configured with the handset cord exiting from the bottom, in a central position.
- (j) All telephones must be water resistant and fireproof, and have key-locked mountings to the wall.
- (k) Telephones shall have touch-tone keypads.
- (l) All Equipment including outdoor installations must meet our safety and security standards.
- (m) We may request installations of telephones for persons with disabilities.
- (n) The System shall include capabilities for protection from power surges and equipment capabilities for protection from power outages.
- (o) The System must have the capability for us to turn a specific, groups of or all telephones on or off remotely. There shall also be a manual on/off switch in various locations within each facility.
- (p) The System must have the capability for us to turn a specific, groups, individuals and/or all telephones on or off remotely via the web administration portal.
- (q) You shall complete full installation with all wiring and fastening of the telephones, including cabling, wiring, conduit, cross-connect jacks, plates, and related hardware, if needed.
- (r) All Equipment must be installed in compliance with established Bermuda Codes and Standards



- (s) All telephones must be securely fastened to the wall with security hardware approved by us. We reserve the right to pre-approve mounting and installation of the telephones and any Equipment.
- (t) Telephones must be line powered such that, the telephone does not require separate electrical power at the device.
- (u) Telephones shall be specifically designed for use in a correctional environment and must be approved by us before installation. You shall not use converted coin telephones.
- (v) Below is a list of phones required during the installation of the System.

Westgate:

- (2) Phones in Intake (unrestricted calls to unrestricted numbers without a PIN).
- (1) Phone in Kitchen.
- (96) Phones – one in each cell of Blocks E2 & E3.
- (3) Phones in the general area of E1.
- (3) Phones in Remand.
- (8) Phones Maximum Security.
- (4) Phone in Administration Segregation – one in each cell.

Farm Facility: (8) Phones

Co-Ed facility:

- (3) Phones - Section C (Right Living House).
- (2) Phones - Section A (Imprisonment).
- (1) Phone – PRT.
- (1) Phone – Section A (Remand).

Total Phones required at time of RFP: 132 phones

8. QUERIES AND ANALYTICS

You shall include, at minimum, the following query and analytical tools within the System:

- (a) Analytical and query features for linkages, relationships, associations, and mapping of data points; data mining, data analytics, data visualization; and predictive modeling.
- (b) Voice biometric identification features that match the caller to the caller's P.I.N. number.
- (c) Continuous voice biometrics to identify the inmate on the call and identify if the call is passed to another inmate.
- (d) Software or other capabilities for us to continue to query, search and access recordings after termination of the Agreement.
- (e) Our staff shall have the ability when using the System to query, print, download, and e-mail reports by any combination of, at minimum, the following: location, P.I.N., phone, number dialed, time/date, duration, call type, and call status.
- (f) The System shall provide us with the ability to reverse lookup of phone numbers called to provide information on called party including but not limited to the type of number called (e.g. landline or cell number), called parties telephone carrier, account holder name and address. This information shall be available by a simple search query.



- (g) The System should allow for individual call retention or batch retention based on an identified search criteria.
- (h) The System should also have the ability to suppress the audio of either party on the call ("**filter out background interference**") for portions of the recorded conversation to distinguish between the speaking parties.
- (i) The System should have ability to enhance audio of recordings.
- (j) The System should be capable of generating a variety of management reports and call detail reports.
- (k) The System should be able to identify calls by time, location, specific telephone, inmate P.I.N., and/or number called.
- (l) The System should be capable of searching calls using a "key word" search. The system shall provide automatic transcription for the identified calls so they can be easily searched by word.
- (m) The System shall also be able provide reports that identifies call trends, such as a reduction in call volume, which may be an indication of a possible maintenance or interference problem.
- (n) The System must identify frequently called numbers by a number of different inmates
- (o) The System should have the ability to export recording to external media, i.e. CD, USB drive, etc.

9. CALL REPORTS

The System must provide summary call reports. Each report shall contain, at minimum, the following breakdowns:

- (a) Call type
- (b) Inmate name and PIN associated used to make the call
- (c) Number called
- (d) Duration of the call
- (e) Number of calls per facility
- (f) Total call volume numbers completed for all locations
- (g) Number of call minutes per location
- (h) Total minutes for completed calls per location
- (i) General Reports: We shall be able to run report queries collectively and for each facility, organized by housing unit.
- (j) Unauthorized Inmate Call Activity Detected Report: Report shall be in summary format by facility, and shall contain any information available to support or assist in investigation of such activities.
- (k) Each Call Detail Report must provide a summary of the total minutes for all calls in the report.
- (l) Within the Call Detail Report, the PIN number must provide a direct link to edit PIN settings for a specific inmate without leaving the current reporting screen
- (m) Within the Call Detail Report, attempted three-way calls must be flagged for visual identification.
- (n) The System shall have the ability to export query results in Excel, PDF and CVS formats.
- (o) The System's reporting capability must have a built-in security threat correlating function. It must allow the definition and selection as search criteria one or more special lists of inmates (e.g. all



- inmates belonging to a particular gang) and one or more special lists of telephone numbers, such that all calls by inmates in a given list are automatically correlated with the specified list of numbers.
- (p) In addition to call detail reports, the System must provide a variety of other administrative and investigative reports at the workstation.
 - (q) Where appropriate, the user must be able to limit the search to call records that meet specified criteria.
 - (r) The System shall provide the special types of reports listed below:
 - i. Call frequency reports by origination number, destination number, PIN, and trunk line ID.
 - ii. Report of all numbers called by more than one inmate.
 - iii. PIN report showing when and by whom the accounts were created and/or modified.
 - iv. Hot PIN report that identifies PINs of special interest and their assigned Alert Groups.
 - v. Hot number report that shows all calls/attempts to numbers of special interest.
 - vi. Call recording playback history report (showing when and who listened to a recording).
 - vii. System activity and user log reports that include among others, a report of users who have downloaded and copied calls to CD or other portable medium.

10. SYSTEM SECURITY

- (a) Access to the administration functions of the System must be password protected consisting of the following:
 - i. Passwords must be constructed according to set length and complexity requirements. As such, all passwords must meet the following minimum requirements:
 - ii. Must be at least eight characters in length
 - iii. Must contain characters from three of the following four categories:
 - 1. at least one uppercase character (A through Z);
 - 2. at least one lowercase character (a through z);
 - 3. at least one digit (0 through 9); and
 - 4. at least one special characters (for example; !, \$, #, %).
- (b) A System user who is properly authorized to perform different administrative tasks must be able to do using two factor authentication.
- (c) Users must be forced to change their password every three (3) months
- (d) The System must allow our properly authorized administrators and investigators to remotely access the System user interface and centrally stored data using personal desktop or laptop computers that have not been provided by you.
- (e) Under no circumstances are you or your Representatives permitted to share, transfer or print any information or data within the System associated with an inmate, their calling history, called party, etc. without our expressed written permission.
- (f) Under no circumstances are you or your Representatives permitted to share or permit access to the System to any third party without our expressed written permission.



11. CENTRALIZED PROCESSING AND DATA STORAGE

- (a) We will provide you with historical data from the former information telephone system for them to import into the new System.
- (b) Data importing and data mapping of the historical data will be your responsibility.
- (c) The System must provide secure, centralized storage of both call records and recordings.
- (d) We must have independent control of the inmate telephones at that facility and have on-site access to the facility's call records and recordings through a workstation computer.
- (e) Reporting capabilities must allow for the reporting of a single location or all locations within the network.
- (f) You shall provide a Systems and network diagram.

12. AUDIT LOG REPORTING

- (a) The System must have the ability to report user activity.
- (b) Such report shall list the user logged into the System at the time, the date, and activity.
- (c) The System must allow our authorized staff options to generate audit reports for all users and for individual users and for all activities and specified activities.
- (d) You shall provide a description of the System's user auditing capabilities.

13. MAINTENANCE AND REPAIRS

- (a) A single point of contact with your Representatives(s), via telephone number and an e-mail address, must be provided and maintained by you for reporting all System problems.
- (b) The System should have the ability to allow our staff to submit a service request from within the System.
- (c) You shall be responsible for all maintenance and repairs to telephones, software, hardware, etc. required for the System, at your Expense.
- (d) The maintenance/repair telephone number shall be answered by a live operator twenty-four (24) Hours per day, every day of the year.
- (e) All Equipment, including installed items shall remain your sole and exclusive property and your sole responsibility and you shall indemnify us against any Loss in accordance with this Agreement.
- (f) You shall provide all necessary labour, parts, materials, technical personnel and transportation to maintain the System, including all telephones and related equipment, in good working order.
- (g) You shall perform preventive maintenance including all maintenance for compliance with the Equipment manufacturer's specifications throughout the Term.
- (h) You shall provide a tiered response to service events:
 - Priority 1: 30% or more of system functionality adversely affected, within 1 hours;
 - Priority 2: 5% - 29% of system functionality adversely affected, within 24 hours; and
 - Priority 3: 5% or less of system functionality adversely affected, within 48 hours.
- (i) We are not be responsible for any Loss to Equipment.
- (j) You shall develop procedures and schedules and conduct monthly Preventive Maintenance on the System and all Equipment.
- (k) You shall provide the schedule and procedures to the DOC intelligence Unit Manager.



- (l) You shall prepare Monthly Maintenance Reports that include:
 - i. The nature and scope of the Preventative Maintenance performed.
 - ii. Identifying any unusual problems or indications of any security risks.
- (j) The System shall be supported by a remote maintenance system and shall self-diagnose to create "trouble tickets" when any System problem is discovered.
- (k) You shall provide and maintain a sufficient inventory of spare parts on island, readily available for repairs and maintenance of the System.
- (l) All routine or scheduled maintenance that could affect access to telephones, System, web portal, payment platform and/or billing generation shall be conducted during the off-peak hours of 10:00 pm to 06:00 am.
- (m) You shall provide maintenance reports in summary format by facility, and shall contain a brief problem, including area affected, description and corrective action taken to resolve the problem. The report shall also include the date and time of the outage, restoration and notification to us.
- (n) Telephone Inspection and Maintenance Log: This report shall be submitted to us on a quarterly basis or as required by us.
- (o) Phone Line Failure: Contractor shall be responsible for determining whether any line access failure is the fault of the local exchange carrier (L.E.C.), the inter-exchange carrier (I.E.C.), or the Contractor's equipment.
- (p) When you determine the responsible party for failure, you shall contact the responsible party for the failure and jointly resolve the failure at no cost to us and no intervention from us.
- (q) If the failure is determined to be your fault or the fault of your Equipment you shall correct the problem at no Expense to us.
- (r) Notification: You shall notify us at least Forty-Eight (48) Hours prior to any planned occurrence that may result in a service interruption to any inmate phone or service that lasts in excess of fifteen (15) minutes.
- (s) During extended outages, you shall send us status updates in two (2) hour intervals until full service on the System is restored.
- (t) Summary of System Outages and/or Maintenance Performed Report.
- (u) You shall provide a maintenance policy.

14. OWNERSHIP

All records related to use of the System shall be and will remain our property.

- (a) Prior to termination of this Agreement for any reason, you shall confirm that we have received and have access to the fully updated and accurate records, and confirm the records related to the System and that such records complies with the requirements of this Agreement, and legal requirements. This is inclusive of inmates specific information held within the System.
- (b) You shall supply a data dictionary and data mapping document for all tables and records used by the System.
- (c) At the end of the Agreement, You will export and deliver to us all data tables and records along with any amendments to the data dictionary and data mapping document used by the System. Exported data can be in CVS or Excel format.



15. TRAINING

You shall provide training to our staff on the System features and usage.

- (a) All trainings related to the use of the System shall be at no Expense to us.
- (b) Training Scope and Schedule. You shall provide a detailed scope of training, including training schedule, length of training, multiple training times and number of personnel that can attend a training session.
- (c) Minimum Trainings. You shall provide, at minimum, the following trainings:
 - i. Initial. The first training session must occur no later than fourteen (14) days prior to the "go-live" date.
 - ii. Ample training sessions must be provided to accommodate all Managers prior to the "go-live" date.
 - iii. Annual. Annual training on the System, including any safety or security risk related to the use of the System.
 - iv. If we request, ample training sessions must be provided to accommodate all work shifts.
 - v. Upgrades. Training sessions prior to upgrades of the System or any of its components that will change the operational and administration procedures or new features shall be performed within seven (7) prior to the upgrade
 - vi. Query and Analytical Tools: Training sessions, to individuals identified by us, in the query and analytical tools and reports functions of the Systems. This training will be provide as requested by us.
 - vii. You shall supply four (4) copies of user guides for Westgate, and one (1) each for the remaining three facility as well as access to an electronic copy available online.
 - viii. You shall ensure all training manuals are kept up-to-date.
- (d) Provide advance training for the Super User and Security Intelligence Officers.

16. Operation Review Meetings

- (a) Upon our request, you shall actively engage and participate in regular Bi-Annual Operations Review Meetings. These meetings will not replace routine communication pertaining to day-to-day issues and the resolution of System questions or issues.
- (b) The parties account managers will meet, on reasonable notice, to discuss your performance and progress under this Agreement. If requested, your account manager and other personnel shall attend all meetings. You shall provide all information that we request for the purpose of monitoring progress under this Agreement.
- (c) We or our duly authorized representatives, shall have access, at reasonable times, to all reports, records, documents, files, and personnel necessary to audit and verify your performance under and subject to, this Agreement. You shall retain reports, records, documents, and files related to charges hereunder for a period of seven (7) years.
- (d) Your Representative shall have the right to reproduce any of the previously mentioned documents, but the Representative shall return, erase or destroy, as commercially reasonable as possible, the previously mentioned documents, upon our written request.
- (e) Should you cease to exist as a legal entity, your records pertaining to your obligation under this Agreement shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation.
- (f) You must provide us with sixty (60) notice written prior to any changes to your obligations to us.





APPENDIX 1
Statement of Work