AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Agreement w/ TurnKey; SO

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Detention Center and TurnKey Corrections

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Communications for jail security

Fiscal Impact:

Submitted by: John Gallowich **Submitter's Email Address:** jgallowich@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:
No concerns, commissions should result in net revenue in times. ln

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 3/13/2020

County Attorney Review: (●) Required ( ) Not Required

Comments:
ok db 3/13/20

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 3/13/2020 Certificate of Insurance Required

Yes ( ) No (●)

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\emense Discharge Date: 3/13/2020

(●) Consent Agenda ( ) Regular Agenda ( ) Worksession Time Allotted: 0

Agenda Date: 3/17/2020

Revised April 2015

March 4, 2020

Capt. Adam Murdie
Gunnison County Sheriff Office
510 Bidwell Avenue
Gunnison, CO 81230

Capt. Murdie,

Enclosed are the signed TurnKey contracts signed by our CFO Tim Westby for:

- TurnKey Corrections Jail Services – including Edovo Tablets for education
- TurnKey Correction Inmate Phones
- Fastcase Law library

Please have the Sheriff and the County Commissioner sign and date the contracts where indicated and return a copy back to me.

Best Regards,

Bill Daehler
Regional Sales Manager
TurnKey Corrections
Three Square Market
American Institutional Supply
Phone or Text: 720-788-7254
Email: BillD@TurnKeyCorrections.com

RELENTLESS INNOVATION, SERVICE & EXECUTION
S U C C E S S

Gunnison County Colorado
JAIL SERVICE AGREEMENT

THIS JAIL SERVICES AGREEMENT ("Agreement") is entered into between Gunnison County Sheriff's Office, and the Gunnison County Board of County Commissioners ("Gunnison County") a political subdivision of the State of Colorado, hereinafter collectively referred to as the "Facility," and T.W. Vending Inc. d/b/a TurnKey Corrections, hereinafter referred to as "Provider" (each a "Party" and collectively, the "Parties").

WHEREAS, the Facility seeks to enter into an agreement for inmate services and commissary products, and

WHEREAS, Provider is capable of providing such services to the Facility and desires to do so according to the terms and conditions stated herein.

NOW THEREFORE, in consideration of the mutual undertakings and agreements contained in this Agreement, the Facility and Provider hereby agrees as follows:

1. Effective Date of Agreement

   This Agreement shall be effective on most recent date set forth on the signature page (the "Effective Date."

2. Term of Agreement

   (a) Except as otherwise provided herein, the Parties agree that the initial term of this Agreement shall be for a period of four (4) years, beginning on the first day of the first full calendar month following the month in which Provider's system becomes operational at the Facility "Term Initiation Date"). This Agreement shall automatically renew for successive one-year terms, provided that, beginning in the final year of the initial term, either Party may terminate this Agreement for any reason by delivery of written notice to the other Party not less than 60 days prior to the termination date. Thereafter, either Party may terminate this Agreement for any reason by delivery of written notice to the other Party not less than 60 days prior to the then-effective one-year term.

   Pursuant to the Local Government Budget Law, Colo. C.R.S. 29-1-101, Provider and Facility agree this Agreement will NOT automatically renew at the end of any annual term (or shorter initial period if Facility's fiscal year ends prior to the 12-month anniversary of the Term Initiation Date) unless sufficient appropriated funds are budgeted by the Gunnison County Board of County Commissioners for such services. Facility represents and warrants that it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal year, and reasonably believes that funds can be obtained sufficient to make all payments during the initial term. Facility hereby covenants that it will do all things reasonably within its power to obtain funds from which the payments may be made, including making provision for

such payments to the extent necessary in each budget submitted for the purpose of obtaining funding and using its bona fide best efforts to have such portion of the budget approved.

(b) In the event no funds or insufficient funds are appropriated and budgeted, or are otherwise not available in any fiscal year for payments due under this Agreement, then Facility will provide, as soon as reasonably practicable, written notice of such occurrence and this Agreement shall terminate on the last day of the fiscal year for which appropriations were received, without penalty or expense to Facility of any kind whatsoever. Nothing in this Section I shall allow Facility to withhold or refuse payment of any money due and payable Provider provided in compliance with this Agreement for which appropriations were or are available.

Facility agrees it will segregate inmate funds it collects from inmates for services and products purchase by inmates pursuant to this Agreement, and will not encumber such funds, and will not otherwise remit such funds to anyone other than the Provider.

(c) Facility grants Provider, as an independent contractor, the right to be the sole and exclusive provider of commissary products, communication products/services (specifically, email, SMS/Text messaging, video visitation picture mail and tablets/hand held devices) available from Provider, regardless of the package of services initially chosen for installation by the Facility.

3. Equipment; Scope of Services

(a) Provider shall install the equipment identified below ("Equipment") and Provider's administrative software, known as the TEAM software system, at the Facility. The pricing for Equipment identified is this Agreement (i.e., as of the Effective Date) reflects the Facility's purchase price as of the Effective Date, for the Equipment specified. Any Equipment purchased thereafter, including upgrades to existing Equipment, are subject to future negotiation. Provider will install and implement the selected services and Equipment detailed below prior to the Term Initiation Date without charge to Facility, unless otherwise expressly set forth herein. Thereafter, the pricing for additional Equipment, services, or any other modifications and/or improvements desired by the Facility, are subject to future negotiation. All other recurring or future prices, expenses, or charges to Facility are fixed as set forth herein, unless this Agreement is modified in accordance with Section 23.

(b) **Trust Accounting Software**: If requested by the Facility, Provider shall furnish, install, repair, and maintain trust accounting software at the Facility. Provider shall install the software on to Facility's systems during the initial training or provide the software to the Facility for electronic download. The Facility shall be solely responsible for the installation and configuration of the software so downloaded. Provider is not responsible for any installation or configuration of software downloaded by Facility. After completing

the download, the Facility shall receive an activation link for the activation of the license. Once the license has been entered or activated, the rights of use and functionalities in accordance with the Agreement shall be available to the Facility.

i. **Software License**. Provider herewith grants the Facility the non-exclusive, non-transferrable and not sub-licensable right to install, run and use the software on Facility's computers within the limits of the scope of use specified in this Agreement. The rights of use granted shall not include any rights to the source code of the software.

   A. The rights of use granted under the Agreement shall be limited in time to the term of this Agreement, or to the time of termination of this Agreement, whichever is earlier.

   B. Any use of the software exceeding the contractually agreed scope of usage is expressly prohibited. The Facility shall use the software only in accordance with the provisions of the Agreement and in accordance with laws and regulations applicable to such use, and shall not infringe any third-party rights in connection with such use. When using the software, the Facility shall, in particular, comply with all applicable data protection and export control provisions.

   C. The rights granted pursuant to this Agreement shall not include and the Facility shall not be entitled to and shall not allow a third party to (i) attempt to circumvent any technical devices of the software that are directed at, or have the effect of, enforcing the terms of the Agreement; (ii) modify, create derivative works, translate, decompile or create or attempt to create, by reverse engineering or otherwise, the source code or the object code of the software; (iii) use the software under any circumstance whatsoever directly or indirectly in a computer service business or service bureau or in a rental or commercial timesharing arrangement; (iv) remove, modify or obscure any copyright, trade secret, confidentiality, trademark, service mark or other proprietary rights, serial number, notice, legend or similar on any copy of the software, or related data, manuals, documentation or other materials; (v) market, sell, lend, rent, lease, or otherwise distribute, the software or give or provide it to third parties; or (vi) except as otherwise expressly provided herein, assign, sublicense or otherwise transfer any rights in or to the software. Facility recognizes and agrees that there is no adequate remedy at law for a breach of this section, and that such breach would irreparably harm Provider for which monetary damages would not be an adequate remedy and that Provider is entitled, in addition to its other rights and remedies, to equitable relief.

   D. As between the parties, Provider retains all right, title and interest in and to the software (and any new versions thereof provided by Provider) and in all copies, modifications and derivative works of the software including, without

limitation, all rights to patent, copyright, trade secret, trademark and other proprietary or intellectual property rights.

E. Provider provides the Facility with the software subject to the conditions set out in this Agreement. It is not part of the software to safeguard an interruption- and latency-free end-to-end connection between different users of the software. The Facility acknowledges that the software may be unavailable or include latency from time to time due to technical difficulties or due to causes beyond the reasonable control of Provider. Additionally, the Facility acknowledges that the end-to-end connection between different users of the software is dependent on the Facility's internet connection to the data center as well as the Facility's use of hardware and software (e.g. kiosks, PC, operating system) in compliance with system requirements for the software, all of which shall not be included in the services provided by Provider and shall be Facility's responsibility. The respective costs shall be borne by Facility.

F. Provider may, at its sole discretion, elect to offer updates to the software for download. These releases may contain the correction of errors, security patches as well as minor improvements of functions (e.g. optimizations in the program execution speed). Provider shall have no obligation to provide updates of the software. If, however, Provider does elect to provide updates of the software, then the Facility shall be obligated to update the software as soon as reasonably practicable. All rights of use set forth herein that are applicable to the software shall also apply to updates.

G. Facility acknowledges that the software and related technical data (collectively "Controlled Technology") are subject to the import and export control and economic sanctions laws of the United States, specifically the U.S. Export Administration Regulations (EAR) and the laws of any country where Controlled Technology is imported or re-exported. Facility agrees to comply with all relevant laws and will not export, re-export, or transfer any Controlled Technology in contravention of U.S. law nor to any restricted country, entity, or person for which an export license or other governmental approval is required. Facility further agrees that it will not export, transfer, or sell any Controlled Technology for use in connection with chemical, biological, or nuclear weapons, or missiles, drones or space launch vehicles capable of delivering such weapons.

H. Provider strictly complies with applicable data protection law. Non-personal or anonymous data may be collected automatically to improve functionality and the Facility's experience with the software. The Facility agrees that Provider owns all rights in and is free to use any such non-personal or anonymous data in any way it deems fit for development, diagnostic, corrective as well as marketing or any other purposes.

I. SPECIFIC AS TO THE SOFTWARE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF

WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE, IN NO EVENT WILL PROVIDER OR ITS LICENSORS, RESELLERS, SUPPLIERS OR AGENTS BE LIABLE TO FACILITY FOR (i) ANY COSTS OF PROCUREMENT OF SUBSTITUTE OR REPLACEMENT GOODS AND SERVICES, LOSS OF PROFITS, LOSS OF USE, LOSS OF OR CORRUPTION TO DATA, BUSINESS INTERRUPTION, LOSS OF PRODUCTION, LOSS OF REVENUES, LOSS OF CONTRACTS, LOSS OF GOODWILL, OR ANTICIPATED SAVINGS OR WASTED MANAGEMENT AND STAFF TIME; OR (ii) ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES WHETHER ARISING DIRECTLY OR INDIRECTLY OUT OF THE USE OF THE SOFTWARE.

J. Since Provider is not selling the software to Facility, and the functionality of the software will cease after the termination of this Agreement, Provider offers no warranty to the Facility as to the software. WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. PROVIDER MAKES NO WARRANTIES OR REPRESENTATIONS THAT THE SOFTWARE WILL MEET FACILITY'S REQUIREMENTS OR THAT OPERATION OR USE OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE. FACILITY MAY HAVE OTHER WARRANTY RIGHTS, WHICH MAY VARY FROM STATE TO STATE AND COUNTRY TO COUNTRY.

EQUIPMENT, SERVICES, CHARGES, COSTS, AND REVENUE SHARING

Accounting & Administrative Software	Provider's accounting and administrative software will be installed on all computers deemed necessary by the Facility.
Inmate Kiosk(s)	Seven (7) kiosk(s) will be installed in the Facility. The kiosks will be compatible with all services offered by the Provider, including commissary ordering, display of account balances, video visitation (both on and off-site), inmate messaging, inmate e-mail, MP3 / Music, and additional services as available. The Facility can use the services it desires on any or all kiosks. Cost for kiosk(s) $0.00. Any additional kiosks are $2,295 each.

Lobby Deposit Kiosk(s)	One (1) lobby kiosk(s) available for processing all cash and credit card deposits by non-inmates. Credit card deposits made online or at the lobby kiosk will require an $8.95 convenience fee, which shall be retained by Provider. Cash deposits at the lobby kiosk will have a $2.00 convenience fee, which shall be retained by Provider. If Facility (or the County of Gunnison, or the State of Colorado) places a lien on an inmate's account for any reason, from and after the date the lien is recorded, or otherwise legally effective, all deposits to such inmate's account shall be allocated seventy percent (70%) as unrestricted cash for such inmate's discretionary use, and thirty percent (30%) to reduce the amount of such inmate's lien. Cost for lobby kiosk(s): $0.00. Any additional lobby kiosks are $2,295 each.
Booking/Release Station(s)	One (1) booking/release station(s) that will include money intake unit, smart (vending) card programmer (if requested), credit card reader (if requested), debit release card programmer (if requested), check printer, and any other requested and available items. As with Lobby Deposits, inmate credit/debit card deposits at booking will require an $8.95 convenience fee, which shall be retained by Provider. Facility is responsible for and must adhere to and complete all required processes to complete any such inmate credit/debit card transaction at the time of booking. The limit for any booking credit/debit card transaction by the inmate is $100. Provider will charge Facility a $1.00 service charge for each debit release card issued to released inmates. Facility can utilize Provider's TEAM software to reduce each released inmate's debit release card net balance by $1.00. Cost for booking/release station(s): $0.00. Any additional booking/release stations are $2,295 each.
Lobby Visitation Station(s): **Video Visitation Costs**	Two (2) lobby public visitation station(s). These stations allow the public to visit inmates on Provider's proprietary inmate visitation station. Cost for lobby visit station(s): $0.00 Any additional lobby visit stations are $2,295 each. If desired, the facility may employ TKC's off-site video visitation solution at any time.

	For off site visits, each visit will cost $0.39 per minute to the general public. Visits performed from lobby visit stations will incur no cost to the County or the public. This is an optional service.
Vending Machines	No Vending Machine(s). Cost for each Vending Machine: $0.00 Any additional Vending Machines are $4,995 each.
Inmate Tablets	Provider will provide inmate tablets **to be determined at a later date** to the facility. In addition, provider will provide one charging station and be responsible for one half of the cost of a dedicated internet line. Facility will be charged $1.00/tablet/day, whether the tablets are being used or not. Facility shall rent from Provider all required equipment to make the tablets functional. Payment by the Facility for these items shall be taken out of Facility commissions. The parameters and the pricing of the tablet-related equipment shall be set forth in an attached Exhibit A. If wireless equipment is needed, the facility will be responsible for terminating wire at location where wireless routers will be placed.
Inmate E-Mail/ SMS/Picture Mail Costs	Inmates who have outside parties communicating with them via email, text or picture mail, will be able to respond in-kind to such communications. E-Mail will cost $0.25 per message sent. SMS will cost $0.13 per message sent. Picture Mail will cost $0.25 per picture sent.
Inmate Telephone Service	TKC TeleCom LLC, an affiliated company with Provider, provides integrated telephone telecommunications equipment and services that include proprietary (and patented) software capabilities (access, monitoring, recording, and archiving), remote data service processing services, back-office data processing, resale of intra-state and inter-state telephone telecommunications, management of relationships with underlying telephone telecommunication carriers and providers, provision and maintenance of related equipment, and help desk functions. In consideration for the above services, the Facility agrees to pay TKC TeleCom $0.12 per telephone-minute used. The Facility is able to charge rates above $0.12 per minute, but the Facility cannot charge rates above $0.25 per minute without thirty (30) days prior written notice to

	the TKC TeleCom, and not without TKC TeleCom's prior written approval. The Facility retains the difference between $0.12 and whatever amount it charges per telephone-minute used, **provided, however**, the difference shall be reduced by applicable taxes as calculated based on the total final charge to users as determined by the Facility. TKC TeleCom will be responsible for remitting all applicable sales, federal and state telephone telecommunication taxes, with the amount paid for such taxes reducing the amount due to the Facility. TKC TeleCom or Provider shall install kiosks and/or corrections grade inmate telephones at locations in the Facility at mutually agreed upon locations, and mutually agreed upon equipment and installation pricing. For the above equipment and services to be effective, the Facility must enter into a separate Facility Telephone Telecommunications Agreement with TKC TeleCom.
Phone PIN Sale Automation	If Inmate Telephone Service is not applicable, Provider will provide the Facility with the ability to automate the sale of phone pins from Facility's phone provider. Provider will provide this service free of charge for the first 30 days. If the Facility wishes to continue to use this feature after the initial 30 days, Provider shall receive 10% of gross sales from this feature.
Other features available	The Facility will be able to use all features offered by the Provider, including paperless kites, law library, attorney and bond agency directory, inmate handbook, PREA automation, and other features. Please check with your sales person to obtain a detailed list of additional available services and costs.
Installation Costs	Provider does not charge the Facility for the initial installation. Facility is responsible for providing electrical and data connections.
Delivery	Provider will package, label and deliver commissary orders ready for distribution twice weekly from its warehouse. The Facility will be responsible for distribution of any such packages.

Commission Rate	Unless a different rate is expressly stated for specific sales or services, the Facility will earn a commissary commission rate of 30% of gross commissary sales (net of sales taxes) and a communication commission rate of 25% of gross Inmate E-Mail/SMS/Video Visitation/Picture Mail Costs sales (net of sales tax) beginning on the 1st day of the month after the Term Initiation Date through the end of the Initial Term, and any renewals, of this Agreement. Notwithstanding the foregoing, no such commission rate will accrue to Facility during the first 90-day period following the completion of the installation, or the Term Initiation Date, whichever occurs later.

(c) **Additional Requirements and Specification**

i. Equipment Ownership: All Equipment provided at no charge is and remains owned exclusively by Provider. Provider shall maintain installed Equipment within the service standards outlined within this Agreement.

ii. **Credit/Debit Card Processing**: Amounts deposited into the Trust Accounts via credit/debit cards are the property of the applicable inmate Trust Account. If any amount so deposited is disputed by the card holder, Provider, at its sole and exclusive option, may process or make a refund to any such card holder. Amounts disputed shall be deducted from the applicable inmate's Trust Account, logged as a debit against such inmate's Trust Account history at the Facility, or the Facility may choose to seek restitution from such inmate for such disputed amount.

A. Provider does not warrant that the processor will function appropriately for the Facility or for any person making a deposit into the Trust Account. Any errors in processing any transaction shall be and remain the responsibility of the processor.

B. Neither Party shall impose any surcharge or similar fee on any transaction that would, or could reasonably be expected to, violate any applicable credit card network rules or applicable law. In cases where Provider's banking or financial partners or similar service providers, impose changes in processing costs payable by Provider, Provider reserves the right to modify transaction processing fees to reflect such changes and to charge such costs to system users. Provider also reserves the right to change processors, at any time and at its sole discretion.

iii. Commissary: All Facility commissary products shall be supplied by Provider, and Facility shall not accept commissary products from any other vendor during the term of this Agreement.

iv. Delivery and Support: Provider shall deliver, or cause to be delivered through a reputable transportation/shipping business, commissary to Facility on a mutually agreeable schedule.

v. Facility Systems and Cooperation: If the Facility requests an interface with its systems and/or with is third-party service provider(s), then the Facility shall

provide access to any necessary technical information and specifications of its systems in order for Provider to be able to interface with the Facility systems and with any such service provider(s). Such technical information shall include, at a minimum, contact information for relevant Facility and service provider personnel, and a general description of the intended interface. Technical information should also include application programming interface (API) specifications and documentation, network service endpoint URI's, and authentication credentials. Only if Provider has an existing interface with the Facility's service provider(s), shall this requirement be waived, and then only at Provider's sole discretion. In addition, the Facility shall provide any technical specifications required for the introduction of any new TEAM features and/or Provider services as they are introduced and/or agreed to by the Facility. Such technical information should include, at a minimum, detailed descriptions of intended operations of the requested feature(s), and any additional required Facility and/or service provider contact information necessary to implement such new feature(s). Best practices require technical information to include flow charts, technical drawings, and/or screenshots of similar features in other software applications. All such systems and contact information shall be submitted by the Facility to the Provider within thirty (30) days of the Effective Date. The failure of Facility to provide the required technical and contact information may be considered a breach of this Agreement by Provider, impacting commission rates, and shall result in diminished service capabilities by Provider.

(d) **System Features**

i. **Video Visitation**

A. All visits are recorded. Visits are recorded in real time audio and four frames per second on video. Facility has 24/7/365 access to all recordings on Provider's web-based system. Although recordings are maintained on Provider's servers, the recordings are property of the Facility, and Provider shall provide Facility with a disk of recordings upon request and at no cost.

B. Visits are able to be monitored by the Facility and Provider. Monitoring allows for visits to be terminated immediately for inappropriate conduct. Visits constituting attorney-client communications, or other legally privileged communications, can be eliminated from monitoring.

C. The Facility will determine the parameters necessary for visitors to be approved and allowed to schedule a visit. Visiting hours can also be set for the Facility both as a whole and relating to specific pods.

D. Visitors, inmates, groups, and pods can all be tagged for real-time review by outside agencies and the Facility's administration.

E. Privileges may be revoked or suspended at any time for any reason for any user.

F. The Facility's staff can be assigned various authority levels to maintain integrity and security of the system.

G. Except as otherwise detailed herein, there are no Provider servers located at the Facility necessary for the Equipment or the services to function.

H. All recordings are maintained on Provider's servers for 90 days. The Facility will be notified of recordings scheduled to be deleted on a monthly basis.

ii. **Inmate Email**

A. Messages can be sent both internally and externally.

B. Ability to send and receive email can be blocked for internal and external parties for any reason at any time.

C. Screening system is in place to identify and block inappropriate words.

D. Messages can be sent to administrative queue for review before delivery to internal or external parties, or can be scored in an automated fashion and delivered directly to the inmate or external party if below a score threshold, or routed to a queue for review if above a score threshold. Messages constituting attorney-client communications, or other legally privileged communications, can be eliminated from monitoring.

E. All messages are saved and kept for the term of the Agreement plus four years.

F. Messages are sent from and delivered to the inmate kiosks, eliminated the need for paper.

G. Indigent credit programs are available to dramatically reduce indigent postage expense.

H. All email messages are the property of the Facility.

iii. **Account Management**

A. Easy-to-use interface walks users through account creation (booking) and account close (release) processes.

B. Track general inmate information including name, inmate number / criminal history number, unit number, language, status, and audit information (user and date/time stamp of record creation and last time the account was altered).

C. Search for accounts based on any combination of the following: inmate number, first/middle/last name, unit number, language, status, account group and sound-ex searches.

iv. **Reports**

A. Customization available.

B. Automatically generates Account Balance Summary, Deposit Transactions, Cash-in Transactions, System Balance, Transaction History, Refund Transactions, Check Register, Voided Checks, Daily Balance, Daily Shift, Inmate Deposits, Inmate Detail, Inactive Accounts, Closed Accounts, Event Log, Kiosk Status, Site Charge Detail, Site Charge Grouping reports, and various additional reports.

C. Export reports to Adobe Acrobat, Microsoft Excel, CSV, HTML, and Comma Delineated.

v. **Equipment and Maintenance**

A. Provider shall furnish, install, repair, and maintain all Equipment and software. Provider is responsible for any security devices or software it deems necessary to protect hardware, software, and data from unauthorized access or disclosure. Provider agrees to keep all Equipment in good order and operating condition. Provider will train Facility staff on how to install a replacement kiosk should it be deemed pertinent to continued performance of the system. Provider maintains a 24/7/365 customer service system. Equipment failures will be addressed within 24 hours. It is the goal of Provider to respond to other service requests within 2 hours of requests and resolve on a priority basis, which is outlined upon installation. All customer service requests are resolved or provided an agreed-upon action plan within 24 hours.

B. Facility will provide:
Building AC power (typically 110 v AC)
CAT 5 network cabling from and to areas as specified by the Provider.
Dedicated, exclusive internet service.

C. Provider agrees to train Facility staff in software and account reporting as needed. It is mutually agreed that within reason, Facility staff will learn and apply procedures that allow Provider's services to be effectively implemented and operated within the Facility.

D. Provider agrees to assist the Facility with customized inmate account reports requested by the Facility for tracking, bookkeeping, auditing purposes, and related training.

E. The Parties agree to cooperate and perform all tasks necessary and desirable in order to facilitate the services contemplated by this Agreement. To the extent there is any ambiguity as to the nature or scope of services to be provided by Provider under this Agreement, the Parties will cooperate in good faith to agree upon the precise nature and scope of such services and set forth such agreement in a writing, dated, signed by the authorized representatives, and made part of this Agreement. If the Parties are unable to reach such agreement within sixty (60) days, then Provider may elect either (a) to exercise its commercially reasonable efforts to provide the service as requested by the Facility or (b) to terminate the Agreement upon

an additional ninety (90) days' written notice. Any such termination shall not relieve either Party from any payment obligations arising prior to the effective date of termination.

(e) **Tampering**. Facility agrees that it is responsible for physical security of all Equipment after delivery and installation, and shall immediately notify Provider of any evidence of tampering, damage, the presence of foreign physical devices, any other abuse, misuse or theft of the Equipment. The Facility shall not modify, alter, install or attach, or permit to be modified, altered, installed or attached, on or to the Equipment, or on or to any software, code or hardware provided therewith. If the Facility becomes aware that any Equipment or attendant software has been modified or tampered with, it shall notify Provider, and Provider as soon as practicable, and Provider shall then immediately disable such Equipment until such time as it can be replaced or removed. Payment for such replacement or removal shall be in accordance with the terms set forth herein.

4. Changes in Features, Fees and/or Prices

(a) During the term of this Agreement, economic conditions may dictate that prices for commissary products be adjusted. Facility acknowledges this fact and consents to any such price adjustments. Provider will communicate all price adjustments to Facility verbally and in writing at least 15 days in advance of price adjustments taking effect. Provider agrees not to adjust commissary product prices more than three times annually.

(b) In addition to adjustment of commissary product prices, economic conditions may require Provider to adjust its fees under this Agreement. Provider will communicate all fee adjustments to Facility verbally and in writing at least 30 days in advance of fee adjustments taking effect. Provider agrees not to adjust fees more than once annually.

(c) Provider may provide "care packages" to inmates when they are booked in at the Facility at a price agreed upon by both Parties based on item requirements.

(d) Provider will offer the features designated in this Agreement for the full term of the Agreement, with one exception: In the event that a feature offered by Provider becomes the subject of a dispute or legal action, Provider has the right to stop providing such feature to the Facility. The Facility agrees that in such circumstance, Provider will not be considered in breach of the Agreement.

5. Compensation and Terms of Payment

The Facility's authorized agent shall have the authority to review and approve invoices issued by the Provider. Payments to Provider shall be made within thirty (30) days after receipt of the invoices.

6. Condition of Payment

Should Provider's provision of services under this Agreement be found to violate applicable federal, state, or local laws, the Facility may withhold payment until Provider is in compliance with such laws, **provided, however**, that Provider shall be entitled to

terminate this Agreement upon delivery of written notice if the Facility withholds payment for more than sixty (60) days.

7. Authorized Agents

The Facility shall appoint an authorized agent for the purpose of administration of this Agreement. Authorized agents for the Provider are:

Dewey Wahlin -President
Phone: 651-261-7158
deweyw@tkc32m.com

Eric Bloms – IT Information
Phone: 715-636-0411
ericb@turnkeycorrections.com

TurnKey Corrections
3329 Casey Street
River Falls, WI 54022

8. County and State Audit

Pursuant to the laws of the State of Colorado, the books, records, documents, and accounting procedures and practices of Provider relating to this Agreement shall be subject to examination by the County and the State Auditor. Complete and accurate records of the work performed pursuant to this Agreement shall be kept by Provider for a minimum of six (6) years following termination of this Agreement for such auditing purposes. The retention period shall be automatically extended during the course of any administrative or judicial action involving the Facility regarding matters to which the records are relevant. Such extension expires when the administrative or judicial action is completed or when the authorized agent of the Facility notifies Provider in writing that the records no longer be kept.

9. Indemnity

(a) Provider agrees to defend, indemnify, and hold the Facility, its employees and officials harmless from any third-party claims, demands, actions or causes of action, including reasonable attorneys' fees and expenses, resulting directly from the conduct of Provider or its subcontractors, agents or employees, in the performance of the work and services to be performed or furnished by Provider under the terms of this Agreement.

(b) Facility agrees to defend, indemnify, and hold Provider, its affiliates and their respective employees, contractors, representatives and other agents harmless from any third-party claims, demands, actions or causes of action, including reasonable attorneys' fees and expenses, arising from or relating to the conduct of the Facility or its subcontractors, agents or employees..

10. Insurance

(a) Provider shall not commence work under this Agreement until it has obtained, at its own cost and expense, all insurance required herein. All insurance coverage is subject to approval by the Facility and shall be maintained by Provider throughout the term of this Agreement.

i. Workers' Compensation
   A. State: - Statutory
   B. Employer's Liability with minimum limits of:
      Bodily Injury by Accident: $100,000 each Accident
      Bodily Injury by Disease: $100,000 each Employee
      Bodily Injury by Disease: $500,000 policy limit
   C. Benefits required by union labor contracts: as applicable

ii. Commercial General Liability
   Including Premises, Operations, Products, Completed Operations, Advertising and Personal Injury Liability, with the following minimum limits of liability:
   $2,000,000 Aggregate
   $1,000,000 Products & Completed Operations Aggregate
   $1,000,000 Personal Injury & Advertising Injury
   $387,000 injury to one person in any single occurrence
   $1,093,000 injury to two or more persons in any single occurrence
   $ 100,000 Fire Damage Limit
   $ 10,000 Medical Expense

iii. Commercial Auto Liability
   Minimum limits of liability shall be:
   $387,000 for injury to one person in a single occurrence
   $1,093,000 for any injury to two or more persons in any single occurrence

iv. Proof of Insurance
   Insurance certificates evidencing the above insurance in the amounts required shall be submitted to the Facility upon the execution of this Agreement. The insurance certificate shall name the Facility as an additional insured and specifically provide that the certificate shall not be modified, canceled or non-renewed except upon thirty (30) days' prior written notice to the Facility. Facility's failure to require or insist upon the certificates or other evidence of insurance does not affect Provider's responsibility to comply with the insurance requirements.

11. Assignment / Subcontracts

Provider shall not assign its duties under this Agreement or subcontract any portion of the work to be performed under this Agreement without the prior written approval of an authorized agent of the Facility. Provider shall ensure and require that any subcontractor

agrees to and complies with the terms of this Agreement. Any subcontractor of Provider used to perform any portion of this Agreement shall report to and bill Provider directly. Provider shall be solely responsible for the breach, performance, or nonperformance of any subcontractor.

12. Force Majeure

The Facility and Provider agree that Provider shall not be liable for any delay or inability to perform this Agreement directly or indirectly caused by or resulting from strikes, labor troubles, accidents, fire, flood, breakdowns, war, riot, civil commotion, lack of material, delays of transportation, acts of God, or other causes beyond reasonable control of Provider.

13. Data Practices

Provider, its agents, employees and any subcontractors of Provider providing services under this Agreement agree to abide by the laws and regulations of State of Colorado regarding data privacy. Provider understands that it must comply with these provisions to the extent of applicable law. Provider agrees to indemnify and hold the Facility, its officers, and employees harmless from any claims resulting from Provider's unlawful disclosure of data protected under such state laws.

14. Access to Premises

The Facility shall arrange access to work sites for Provider as necessary for the purpose of performing the work described in this Agreement. Provider agrees and understands only persons authorized by the Facility may have access to the Facility, and Provider shall provide, at its expense, such verification as is necessary to allow the Facility to approve such persons that Provider desires to have access to the Facility.

15. Independent Contractor Relationship

It is agreed that nothing contained in this Agreement is intended to or should be construed as creating the relationship of a partnership, a joint venture, or an association between the Facility and Provider. Provider is an independent contractor to the Facility and neither it nor its employees, agents, subcontractors, or representatives, shall be considered employees, agents, or representatives of the Facility. Except as otherwise provided herein, Provider shall maintain, in all respects, its present control over the means and personnel by which this Agreement is performed. The Facility shall not deduct from the amounts due to Provider any federal income tax, FICA payments, state income tax, or any other amounts associated with an employer/employee relationship unless otherwise required by law. Payment of federal income tax, FICA payments, state income tax, unemployment compensation taxes, and other payroll deductions and taxes are the sole responsibility of Provider.

16. Immigration Status Verification

In accordance with Federal and local laws, Provider warrants that it has registered with and uses a federal immigration verification system to determine the work eligibility status of new employees physically performing services at the Facility.

17. Notices

Any notices provided under this Agreement shall be given by enclosing same in a sealed envelope, postage prepaid, via certified mail, and depositing the same in the United States Postal Service, addressed to one of the authorized agents of Provider at its address stated herein or to the authorized agent of the Facility, as applicable.

18. Dispute Resolution and Governing Law

This Agreement, the validity, construction and enforcement hereof, shall be governed by and construed in accordance with the laws of the State of Wisconsin without regard to any conflicts of law rules that would result in the application of the law of any other jurisdiction. The Parties agree that any matter not able to be resolved through the dispute resolution mechanism set forth below shall be resolved exclusively according to Wisconsin law, but in the state district court of Gunnison County, Colorado, and the Parties each agree to submit to personal jurisdiction therein.

(a) The Parties hereto agree that they shall first attempt to resolve any disputes arising hereunder through communication by and between the respective teams at each Party responsible for the obligations hereunder of each Party to the other. Should such communications fail, and in the absence of governmental regulations to the contrary, the Parties hereto agree to resolve disputes through the use of binding arbitration. The Parties agree to the use of the American Arbitration Association, and to its rules then in force at the time the dispute arises. Venue for the arbitration shall be in a forum convenient to the Facility, and the panel for the arbitration shall consist of three (3) members. Each Party hereto shall select one (1) member of the panel, and the two (2) Party selected panel members shall select the third (3rd) member of the panel. The decision of the arbitrators need not be unanimous, but it shall be binding. Among the determinations to be made by the arbitrators is the division or allocation of the fees and costs incurred by each Party, both as and for attorneys' fees and costs, and as and for the costs and fees of the panelists. The decision of the arbitration panel shall be final and shall be entered into a court of competent jurisdiction, and shall be a binding obligation of the Parties hereto.

19. Notice and Termination

Should a Party assert that the other Party has failed to comply with an obligation contained in this Agreement, the complaining Party shall provide notice in writing to the breaching Party. Such notice shall describe the specific breach and provide a reasonable plan of corrective action to cure the alleged breach. If the Parties do not agree upon and implement a mutually-acceptable cure of the alleged breach within sixty (60) days, then either Party may terminate the Agreement upon an additional ninety (90) days' written notice. Any

such termination shall not relieve either Party from any payment obligations arising prior to the effective date of termination.

20. Successors and Assigns

This Agreement shall be binding upon, and shall inure to the benefit of, the Parties and each of their successors, assigns, and legal representatives, and affiliates. Provider reserves the right to assign, sublet, or transfer any interest in this Agreement without the prior written consent of the Facility.

21. Limitation of Liability

IN NO EVENT SHALL PROVIDER BE LIABLE TO THE FACILITY, REGARDLESS OF THE BASIS OR GROUND OF LIABILITY, FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES OR LOSSES, WHETHER FORESEEABLE OR NOT, EVEN IF THE FACILITY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE SERVICES TO BE PROVIDED HEREUNDER. SHOULD PROVIDER BE LIABLE UNDER THIS AGREEMENT FOR ANY LIABILITY THAT IS NOT EXCLUDED UNDER THE PRECEDING SENTENCE, OR IF SUCH EXCLUSION OF LIABILITY IS NOT VALID OR ENFORCEABLE UNDER APPLICABLE LAW, SUCH LIABILITY OF PROVIDER SHALL, IN THE AGGREGATE, NOT EXCEED THE AGGREGATE AMOUNT OF THE PRICE PAID TO AND RECEIVED BY PROVIDER UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

22. Equal Employment and Americans with Disabilities

In connection with the provision of services contemplated under this Agreement, Provider agrees to comply with the applicable provisions of state and Federal equal employment opportunity and nondiscrimination statutes and regulations.

23. Changes

The Parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, signed by the authorized representatives, and made part of this Agreement.

24. Severability

In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall be valid and binding upon the Parties unless such invalidity would cause the Agreement to fail its purpose. The waiver by any Party of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any Party, nor shall any waiver operate or be construed as a rescission of this Agreement.

25. Government Immunity

The terms of this Agreement do not remove constitutional or statutory governmental immunity.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed intending to be bound thereby.

GUNNISON COUNTY SHERIFF

By: John Gallowich
JOHN GALLOWICH COUNTY SHERIFF

Date 03-09, 2020

TURNKEY CORRECTIONS

By: _____
TIM WESTBY, CFO

Date 3-04, 2020

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
JONATHAN HOUCK, CHAIRPERSON

Date _____, 20__

ATTEST:

_____
Deputy Clerk

Date _____, 20__

EXECUTION INSTRUCTIONS:

1. Please print and sign two copies.
2. Please mail both copies to: Dewey Wahlin, TurnKey Corrections, 3329 Casey Street, River Falls, WI 54022
3. We will return original copy to you with all original signatures. We will retain one copy for our records.

FACILITY TELEPHONE TELECOMMUNICATIONS AGREEMENT

This Facility Telephone Telecommunications Agreement (the "Agreement") is made and entered into between TKC TeleCom LLC, a Delaware limited liability company, and Gunnison Detention Center, a county correctional facility in the State of Colorado (the "Facility").

This Agreement is effective as of the most recent date set on the signature page to this Agreement (the "Effective Date").

RECITALS

WHEREAS, TKC TeleCom provides integrated telephone telecommunications equipment and services that include proprietary (and patented) software capabilities (access, monitoring, recording, and archiving), automated back-office data processing, resale of intra-state and inter-state telephone telecommunications, management of relationships with underlying telephone telecommunication carriers and providers, provision and maintenance of related equipment, and help desk functions (collectively, the "TeleCom Services").

WHEREAS, TKC TeleCom is affiliated with (i.e., under common control with) T.W. Vending, Inc. (d/b/a/ TurnKey Corrections);

WHEREAS, TurnKey provides: (i) inmate booking and release systems to correctional facilities, (ii) family and friends of inmate's the online ability to deposit funds for the benefit of inmates, (iii) integrated point-of-sale equipment and services to correctional facilities that facilitate commissary sales and inventory management, payment processing, and automated accounting, and (iv) inmates the ability to purchase perishable and non-perishable goods, interactive video communications, email, and text messaging services (collectively, the "TurnKey Services");

WHEREAS, the Facility desires to receive the TeleCom Services together with, or separate from, the TurnKey Services;

NOW THEREFORE, in consideration good and valuable consideration, TKC TeleCom and the Facility hereby agree as follows:

AGREEMENT

Section 1. Telephone Systems Integration. TKC TeleCom agrees to provide the Facility the TeleCom Services. In consideration for the TeleCom Services, the Facility will pay TKC TeleCom $0.12 for each telephone minute all inmates calls during the Term (as defined below) of this Agreement. This payment to TKC TeleCom will not be reduced by sales taxes resulting from the final charge for using such services.

(a) Facility Charge; Taxes. The Facility can elect to charge inmates per-minute telephone rates higher than $0.12 per minute, however the Facility will not charge rates above

$0.25 per minute without thirty (30) days prior written notice to TKC TeleCom, and not without TKC TeleCom's prior written approval. For per-minute telephone rates the Facility charges to users above the $0.12 per minute, the Facility will retain the differential between $0.12 and such amount charged, less applicable taxes. The applicable taxes shall be calculated based on the final charge to users as determined by the Facility. Subject to the foregoing, TKC TeleCom will be responsible for remitting all applicable sales, federal and state telephone telecommunication taxes, with the amount paid in tax reducing the amount paid to the Facility from TKC TeleCom.

Section 2. Equipment and Installation. TKC TeleCom will install up to Eight (8) corrections grade inmate telephones ("Equipment") within the Facility at mutually agreed upon locations, and mutually agreed upon Equipment and installation pricing. The price for such Equipment and installation shall be as set forth in an invoice prepared and sent by TKC TeleCom to the Facility, which invoice shall be acknowledged and accepted in writing (including through email) by an authorized official of the Facility. The Facility agrees that the TeleCom Services cannot begin until the Facility acknowledges and accepts the Equipment pricing.

(a) Tampering. Facility agrees that it is responsible for physical security of all Equipment after delivery and installation, and shall immediately notify TKC TeleCom of any evidence of tampering, damage, the presence of foreign physical devices, any other abuse, misuse or theft of the Equipment. The Facility shall not modify, alter, install or attach, or permit to be modified, altered, installed or attached, on or to the Equipment, or on or to any software, code or hardware provided therewith. If the Facility becomes aware that any Equipment or attendant software has been modified or tampered with, it shall immediately notify TKC TeleCom, and TKC TeleCom shall then immediately disable such Equipment until such time as it can be replaced or removed. Payment for such replacement or removal shall be in accordance with the terms set forth herein.

Section 3. Training. TKC Telecom agrees to train the Facility staff how to administer and operate the Telecom Services effectively. It is mutually agreed that, within reason, the Facility staff will learn and apply procedures that allow the TeleCom Services to be effectively implemented and operated within the Facility.

Section 4. TeleCom Service Payment Terms. In consideration for the provision of services set forth in Section 1, the Facility will make payment to TKC TeleCom on a "net 30-day" basis determined from the date of each invoice TKC TeleCom provides the Facility.

Section 5. Contract Term. The initial term for this Agreement begins on the Effective Date, and shall be for a period of Four (4) years. This Agreement shall automatically renew for successive one-year terms, provided that, beginning in the final year of the initial term, either TKC TeleCom or the Facility may avoid the initial annual extension by delivering written notice to the other party not less than 60 days prior to the termination date. Thereafter, either TKC TeleCom or the Facility may terminate this Agreement for any reason by delivery of written notice to the other Party not less than 60 days prior to the then-effective one-year term. The "Term" of this Agreement includes the initial term, and all annual extensions thereafter.

Section 6. Miscellaneous.

(a) Integration. This Agreement encompasses the entire agreement, whether oral or written, between TKC TeleCom and the Facility.

(b) Amendment; Modification. This Agreement may not be modified or amended, in whole or in part, except by a writing signed by duly authorized officials of TKC TeleCom and the Facility.

(c) No Third-Party Beneficiaries. The provisions of this Agreement are not intended to be for the benefit of or enforceable by any third party.

(d) Dispute Resolution. The Parties hereto agree that they shall first attempt to resolve any disputes arising hereunder through communication by and between the respective teams at each Party responsible for the obligations hereunder of each Party to the other. Should such communications fail, and in the absence of governmental regulations to the contrary, the Parties hereto agree to resolve disputes through the use of binding arbitration. The Parties agree to the use of the American Arbitration Association, and to its rules then in force at the time the dispute arises. Venue for the arbitration shall be in a forum convenient to the Facility, and the panel for the arbitration shall consist of three (3) members. Each Party hereto shall select one (1) member of the panel, and the two (2) Party selected panel members shall select the third (3rd) member of the panel. The decision of the arbitrators need not be unanimous, but it shall be binding. Among the determinations to be made by the arbitrators is the division or allocation of the fees and costs incurred by each Party, both as and for attorneys' fees and costs, and as and for the costs and fees of the panelists. The decision of the arbitration panel shall be final and shall be entered into a court of competent jurisdiction, and shall be a binding obligation of the Parties hereto.

(e) Governing Law. This Agreement, the validity, construction and enforcement hereof, and all disputes relating hereto, shall be governed by and construed in accordance with the laws of the State of the Facility without regard to any conflicts of law rules that would result in the application of the law of any other jurisdiction. TKC TeleCom and the Facility agree that any dispute not capable of being resolved through arbitration shall be litigated exclusively in the State district court of the State of the Facility, or the United States District Court convenient to the Facility, and TKC TeleCom and the Facility agree to submit to personal jurisdiction therein.

(f) Counterparts. This Agreement may be executed in any number of counterparts and, when so executed, all of such counterparts shall constitute a single instrument binding upon both parties notwithstanding the fact that both parties are not signatory to the original or to the same counterpart.

IN WITNESS WHEREOF, duly authorized officials of each party have executed this Agreement, and it is effective as of the Effective Date.

TKC TeleCom LLC

By: _____ Date: 3-04-20
Tim Westby

Its: Chief Financial Officer

_____ **County Correctional Facility**

By: _____ Date: _____

Title: _____
A Duly Authorized Official