

EXHIBIT 11

You've Got Mail:
The promise of cyber communication in prisons and need for regulation

Kansas Dept. of Corrections Contract with JPay

PRISON
POLICY INITIATIVE

CONTRACT AWARD

Date of Award: July 1, 2013

Contract ID: 00000000000000000000037751
Event ID: EVT0001554

Procurement Officer: Greg Davis
Telephone: 785-296-7240
E-Mail Address: greg.davis@da.ks.gov
Web Address: <http://da.ks.gov/purch>

Item: Inmate Kiosk

Agency/Business Unit: Department of Corrections

Period of Contract: August 1, 2013 through July 31, 2016
(With two (2) one (1) year renewals)

Contractor: JPAY INC
12864 BISCAYNE BLVD #243
MIAMI, FL 33181

Vendor ID: 0000395554
Toll Free Telephone: 866-333-5729
Local Telephone: 954-862-6912
Fax: 305-675-0693
FEIN: 01-0756761
Contact Person: Errol Feldman
E-Mail: efeldman@jpay.com

Payment Terms: Net 30 Days

Political Subdivisions: Pricing is not available to the political subdivisions of the State of Kansas.

Procurement Cards: Agencies may not use a P-Card for purchases from this contract.

Administrative Fee: No Administrative Fee will be assessed against purchases from this contract.

The above referenced contract award was recently posted to Procurement and Contracts website. The document can be downloaded by going to the following website:

<http://www.da.ks.gov/purch/Contracts/>

Amendment No. 1

to

No. 37751**Agreement Between
Kansas Department of Corrections (KDOC) and
JPay, Inc. (Contractor) for
Inmate Electronic Messaging and Kiosk Services**

This Amendment is made this 29th day of October, 2013 by and between Kansas Department of Corrections, by and on behalf of the State of Kansas, and as approved by the Kansas Department of Administration Division of Purchases ("State") and JPay, Inc. ("Contractor").

WITNESSETH:

WHEREAS, the parties entered into an Agreement for Inmate Electronic Messaging and Kiosk Services ("Agreement") dated July 1, 2013; and,

WHEREAS, the parties have agreed to amend the Agreement by modifying the **Term** and **Attachment B** of the Agreement;

NOW, THEREFORE, the parties hereby agree to amend the Agreement as follows:

1. The first paragraph of **Section D. Agreement Term and Termination** is hereby deleted in its entirety and replaced with the following:

A. Agreement Term and Termination

This Agreement shall commence upon August 1, 2013 ("Effective Date") and remain in force for an initial term of 3 years from the Effective Date stated above, with an expiration date of July 31, 2016 ("Initial Term"). The Agreement shall not bind, nor purport to bind, State for any contractual commitment in excess of the Initial Term. However, State, at its sole option, shall have the right to renew this Agreement for 2 additional 1 year terms, with 30 days written notice to Contractor prior to the expiration of the Initial Term or renewal term of the Agreement. In addition, the State reserves the option to extend this Agreement on a month to month basis past the Initial term or renewal term(s) to accommodate a transition of service for the Facilities. In the event State exercises either of these rights, all terms and conditions, requirements, and specifications of the Agreement shall remain the same and apply during the renewal and/or month to month extension term(s). This Agreement will not automatically renew.

2. The table providing the number of kiosks at each Facility on **Attachment B - Inmate Kiosks Required** is amended by deleting the table in its entirety and replacing it with the following:

Inmate Kiosks Required

Facility Name	# of Inmate Soft Kiosks	# of Inmate Hard Kiosks
El Dorado Correctional Facility (Including North Unit & Southeast Units)	3	22
Ellsworth Correctional Facility (Including East Unit)	4	10
Hutchinson Correctional Facility (Including South Unit)	3	16
Hutchinson Correctional Facility – East Unit	0	6
Lansing Correctional Facility	9	26
Larned Correctional Mental Health Facility	0	7
Norton Correctional Facility	1	11
Stockton Correctional Facility	1	0
Topeka Correctional Facility	7	7
Wichita Work Release Facility	1	0
Winfield Correctional Facility	9	0

3. Except as expressly modified by this Amendment No.1, the provisions and conditions of the original Agreement are unchanged and shall remain in full force and effect. The original Agreement, as expressly modified by this Amendment No. 1, is the complete agreement of the parties and supersedes all prior or contemporaneous agreements and representations, whether written or oral and may not be further modified or amended except by written amendment.

**AGREEMENT FOR INMATE ELECTRONIC MESSAGING AND KIOSK SERVICES
BETWEEN
KANSAS DEPARTMENT OF CORRECTIONS
AND
JPAY, INC.
CONTRACT NO. 37751**

AND NOW, on this 1st day of July, 2013, this Agreement is made by and between the Kansas Department of Corrections, by and on behalf of the State of Kansas, and as approved by the Kansas Department of Administration Division of Purchases, (hereafter, "State") and JPay Inc. (hereafter, "Contractor").

WITNESSETH:

WHEREAS, the Kansas Department of Corrections (KDOC) desires to acquire electronic messaging and kiosk services for inmates in order to replace an existing agreement for its adult offender facilities ("Facilities"), as listed in Attachment B of this Agreement, which may be modified by KDOC during the term of the contract; and

WHEREAS, State duly issued Request for Proposal No. EVT0001554, on the date of July 11, 2012 soliciting bids from vendors for electronic messaging and kiosk services for inmates; and

WHEREAS, Contractor, a qualified provider of electronic messaging and kiosk services for the corrections industry, submitted a proposal in response to the RFP.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises contained herein, it is mutually agreed as follows:

II. GENERAL TERMS

A. Scope

Contractor shall install and operate electronic messaging and kiosk services and related equipment for inmates. Contractor shall, without cost to KDOC, provide all wiring for the inmate electronic messaging and kiosk services and related equipment, install the electronic messaging and kiosk services and the related hardware and software specifically identified herein.

B. Agreement Formation

The Agreement between the parties consists of:

1. **DA146 (Attachment D);**
2. Amendments to this Agreement;
3. This Agreement;
4. Request for Proposal No. EVT0001446; and
5. Contractor's written proposal.

In the event of a conflict in terms of language among the documents, the above order of precedence shall govern.

C. Notices

Any notice required by this Agreement shall be given in writing and delivered in person, by registered, certified or overnight mail delivery service to the party's address listed below.

State:

Secretary of Corrections
900 S.W. Jackson, 4th Floor
Topeka, KS 66612-1284
ATTN: Chief Legal Counsel

Contractor:

JPay Inc.
12864 Biscayne Blvd. Ste. 243
Miami, FL 33181
ATTN: Errol Feldman, General Counsel

With a copy to:

Kansas Department of Administration
Procurement and Contracts
800 SW Jackson St, Suite 600
Topeka, Kansas 66612-1286
RE: EVT0001554

D. Agreement Term and Termination

This Agreement shall commence upon February 1, 2013 (hereafter, "Effective Date") and remain in force for an initial term of three (3) years from the Effective Date stated above, with an expiration date of January 31, 2016 (hereafter, "Initial Term"). The Agreement shall not bind, nor purport to bind, State for any contractual commitment in excess of the Initial Term. However, State, at its sole option, shall have the right to renew this Agreement for two (2) additional one (1) year terms, with thirty (30) days written notice to Contractor prior to expiration of the Initial Term or renewal term of the Agreement. In addition, the State reserves the option to extend this Agreement on a month to month basis past the Initial term or renewal term(s) to accommodate a transition of service for the Facilities. In the event State exercises either of these rights, all terms and conditions, requirements, and specifications of the Agreement shall remain the same and apply during the renewal and/or month to month extension term(s). This Agreement will not automatically renew.

1. Breach and Termination

- a. In the event either party breaches the Agreement by failing to perform as agreed, the non-breaching party shall give the breaching party written notice of the failure stating what failure has occurred. The breaching party shall have thirty (30) days after the receipt of such notice to remedy the failure. If the breaching party does not remedy the failure in the allowed thirty (30) days, the non-breaching party may cancel this Agreement.
- b. Contractor is responsible for performing remote diagnostics, monitoring, and maintenance on the kiosk units. In the event that State experiences a service or equipment outage, Contractor shall repair any such outage or otherwise restore service within ten (10) days after it receives notice of or

detects a service or equipment outage. If Contractor is unable to make the necessary repairs and/or restore service within this ten (10) day period, State may immediately terminate this Agreement upon providing written notice of termination to Contractor. The transition period referred to in **Section III of Attachment A** of this Agreement will begin upon the termination of this Agreement.

- c. Should Contractor for any reason, except in the case of force majeure (see **Section I, Paragraph E**), become unable to complete the work required by this Agreement, State may, at its sole discretion, call for the Surety Bond due, in full for such non-performance, and/or as liquidated damages. Notwithstanding the above, should State prevent Contractor from entering the premises to complete repair work on the kiosks, Contractor shall have time to complete said repairs using the provisions under **Section IX, Item D of Attachment A** of this Agreement, after State allows Contractor access to the kiosk units.

2. Termination for Cause

- a. The State may terminate the Agreement, or any part of the Agreement, for cause under any one of the following circumstances:
 1. Contractor fails to make delivery of goods or services as specified in this Agreement;
 2. Contractor provides substandard quality and/or workmanship;
 3. Contractor fails to perform any of the provisions of this Agreement, or
 4. Contractor fails to make progress as to endanger performance of this Agreement in accordance with its terms.
- b. The State shall provide Contractor with written notice of the conditions endangering performance. If Contractor fails to remedy the conditions within ten (10) days from the receipt of the notice (or such longer period as KDOC may authorize in writing), the State shall issue Contractor an order to stop work immediately. Receipt of the notice shall be presumed to have occurred within three (3) days of the date of the notice.

3. Termination for Convenience

- a. The Director of Purchases may terminate performance of work under this Agreement in whole or in part whenever, for any reason, the State shall determine that the termination is in the best interest of the State. In the event that the State elects to terminate this Agreement pursuant to this provision, it shall provide Contractor written notice at least thirty (30) days prior to the termination date. The termination shall be effective as of the date specified in the notice. Contractor shall continue to perform any part of the work that may have not been terminated by the notice.
- b. The transition period referred to in **Section III of Attachment A** of this Agreement will begin upon termination. Contractor agrees that no penalty shall be allowed as a result of State's termination of this Agreement prior to its expiration.

E. Rights and Remedies

1. If the awarded Agreement is terminated, the State, in addition to any other rights provided for in the contract, may require Contractor to transfer title and deliver to the State in the manner and to the extent directed, any completed materials. The State shall be obligated only for those services and materials rendered and accepted prior to the date of termination.
2. The rights and remedies of the State provided for in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

F. Force Majeure

Contractor shall not be held liable if the failure to perform under this Agreement arises out of causes beyond the control of Contractor. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by Contractor's employees, and freight embargoes, etc.

G. Waiver

Waiver of any breach of any provision in this Agreement shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by the State shall not constitute a waiver.

H. Independent Contractor

1. Contractor and State, in the performance of the Agreement, shall be acting in their individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be construed to be the employees or agents of the other party for any purpose whatsoever.
2. Contractor accepts full responsibility for payment of unemployment insurance, workers compensation and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for its employees engaged in work authorized by this contract.

I. Staff Qualifications

1. Contractor shall warrant that all persons assigned by it to the performance of the Agreement shall be employees of Contractor (or specified subcontractor) and shall be fully qualified to perform the work required. Contractor shall include a similar provision in any contract with any subcontractor selected to perform work under this contract.
2. Failure of Contractor to provide qualified staffing at the level required by the proposal specifications may result in termination of the Agreement and/or damages.

J. Subcontractors

Contractor shall be the sole source of contact for this Agreement. The State will not subcontract any work under the Agreement to any other firm and will not deal with any subcontractors. Contractor is totally responsible for all actions and work performed by its subcontractors. All terms, conditions and requirements of this Agreement shall apply without qualification to any services performed or goods provided by any subcontractor.

K. Conflict of Interest

Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any professional personnel who are also in the employ of the State and who are providing services involving this Agreement or services similar in nature to the scope of this Agreement to the State. Furthermore, Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any state employee who has participated in the making of this Agreement until at least two years after his/her termination of employment with the State.

L. Confidentiality

Contractor may have access to private or confidential data maintained by the State to the extent necessary to carry out its responsibilities under this Agreement. Contractor must comply with all the requirements of the Kansas Open Records Act (K.S.A. 42-215 et seq.) in providing services under this Agreement. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this Agreement shall be disseminated by either party except as authorized by statute, either during the period of this Agreement or thereafter. Contractor must agree to return any or all data furnished by the State promptly at the request of the State in whatever form it is maintained by Contractor. On the termination or expiration of the Agreement, Contractor will not use any of such data or any material derived from the data for any purpose and, where so instructed by the State, will destroy or render it unreadable.

M. Nondiscrimination and Workplace Safety

Contractor agrees to abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violations of applicable laws, rules and regulations may result in termination of this Agreement.

N. Environmental Protection

Contractor shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. Contractor shall report any violations to the applicable governmental agency. A violation of applicable laws, rule or regulations may result in termination of this Agreement for cause.

O. Hold Harmless

1. Contractor shall defend, indemnify, and hold the State and its affiliates, agents, employees, officers, directors, and successors harmless from loss, cost, expenses, damages or liability (including reasonable attorney's fees) resulting from actions, causes of action or claims brought or threatened hereunder, for (a) any actual or alleged negligence or dishonesty of, or any actual or alleged act of commission or omission by, Contractor or any of its employees, agents or subcontractors; in providing the equipment and services hereunder, (b) the operation of Contractor's business or Electronic Messaging and Kiosk Services; (c) any breach by Contractor of its obligations hereunder; or (d) any alleged patent, copyright or trademark infringement or unauthorized use of trade secrets or other proprietary rights in connection with the Electronic Messaging and Kiosk Services, except where such claims, demands or liabilities are due to the negligence of the State, its agents or employees
2. The State agrees to provide Contractor with reasonable and timely notice on any claim, demand or cause of action made or brought against the State arising out of or related to the services rendered by Contractor. Contractor shall have the right to defend any such claim at its sole cost and expense and with its exclusive discretion. The State will promptly advise Contractor of any proposed agreement to compromise or settle any claim and Contractor will have ten (10) days to respond to such proposal.
3. In the event an infringement claim is made or threatened against the State, or injunctive relief is granted to a claimant, Contractor shall (a) obtain the right for the State to continue use of the services; (b) substitute other services of like capability, or (c) replace or modify the services to render them non-infringing while retaining like capability. In the event Contractor is unable to perform any of the above, the State may terminate this Agreement upon sixty (60) days written notice to Contractor. The remedies provided in this subsection are the State's sole remedies for Contractor's failure to perform any obligation in this subsection.
4. These indemnities and remedies shall survive the expiration or other termination of this Agreement.
5. Contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State, including its agents, employees, and assigns.
6. The State shall not be precluded from receiving the benefits of any insurance Contractor may carry which provides for indemnification for any loss or damage to property in Contractor's custody and control, where such loss or destruction is to state property. Contractor shall do nothing to prejudice the State's right to recover against third parties for any loss, destruction or damage to State property.

P. Care of State Property

Contractor shall be responsible for the proper care and custody of any State-owned personal tangible property and real property furnished for Contractor's use in connection with the performance of this Agreement, and Contractor will reimburse the State for such property's loss or damage caused by Contractor, normal wear and tear excepted.

Q. Prohibition of Gratuities

Neither Contractor nor any person, firm or corporation employed by Contractor in the performance of this Agreement shall offer or give any gift, money or anything of value or any promise for future reward or compensation to any State employee at any time.

R. Retention of Records

1. Unless the State specifies in writing a different period of time and in conjunction with **Section III, Paragraph D**, Contractor agrees to preserve and make available all of its books, documents, papers, records and other evidence involving transactions related to this Agreement for a period of five (5) years from the date of the expiration or termination of this Agreement.
2. Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals, if the litigation exceeds five (5) years.
3. Contractor agrees that authorized federal and state representatives, including but not limited to, personnel of the using agency; independent auditors acting on behalf of the State and/or federal agencies shall have access to and the right to examine records during the Agreement period and during the five (5) year post Agreement period. Delivery of and access to the records shall be at no cost to the State.

S. Antitrust

If Contractor elects not to proceed, Contractor assigns to the State all rights to and interests in any cause of action it has or may acquire under the anti-trust laws of the United States and the State of Kansas relating to the particular products or services purchased or acquired by the State pursuant to this Agreement.

T. Modification

This Agreement shall be modified only by the written agreement of the parties with the approval of the State. No alteration or variation of the terms and conditions of the Agreement shall be valid unless made in writing and signed by the parties. Every amendment shall specify the date on which its provisions shall be effective.

U. Assignment and Mergers/Acquisition

1. The services to be performed under this Agreement shall not be assigned, sublet or transferred without thirty (30) days advance written notification to the State and then only upon Contractor's receipt of the State's written consent.
2. Upon receipt of the State's written consent, any such purchaser, assignee, successor, or delegate shall thereupon assume all rights and responsibilities of Contractor. However, the State may assign any and/or all of its rights and obligations hereunder without Contractor's written consent but upon the State's written notice thereof to Contractor (1) to any Affiliate; (2) pursuant to any sale or transfer of all or substantially all of its business or assets; (3) pursuant to any merger, acquisition or reorganization; or (4) as part of a bona fide pledge to a third party lending institution of collateral of the assignor's rights hereunder.
3. If Contractor merges or is acquired by another entity, the following documents must be submitted to the State:
 - a. Corporate resolutions prepared by the Contractor and the new entity ratifying acceptance of the Agreement terms, conditions and processes.
 - b. New Contractor's Federal Identification Number (FEIN) if applicable.
 - c. Other documentation requested by the State.
4. Contractor expressly understands and agrees that it assumes and is solely responsible for all legal and financial responsibilities related to the execution of this Agreement. Contractor agrees that utilization of a subcontractor to provide any of the products/services in this Agreement shall in no way relieve Contractor of the responsibility for providing the products/services as described and set forth herein.

V. Third Party Beneficiaries

This Agreement shall not be construed as providing an enforceable right to any third party.

W. Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of the Agreement shall not be affected and each provision of this Agreement shall be enforced to the fullest extent permitted by law.

X. Governing Law

This Agreement shall be governed by the laws of the State of Kansas and shall be deemed executed at Topeka, Shawnee County, Kansas.

Y. Jurisdiction

Contractor and State shall bring any and all legal proceedings arising hereunder in the State of Kansas District Court of Shawnee County, unless otherwise specified and agreed upon by the State of Kansas. Contractor waives personal service of process, all defenses of lack of personal jurisdiction and forum non conveniens. The Eleventh Amendment of the United States Constitution is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this Agreement shall be deemed a waiver of the Eleventh Amendment.

Z. Mandatory Provisions

The provisions found in DA 146a (Contractual Provisions Attachment – **Attachment D**) which is attached are incorporated by reference and made a part of this Agreement.

AA. Integration

This Agreement, in its final composite form, shall represent the entire agreement between Contractor and State and shall supersede all prior negotiations, representations or agreements, either written or oral, between the parties relating to the subject matter hereof. This Agreement between the parties shall be independent of and have no effect on any other contracts of either party.

BB. Debarment of State Contractors

Any Contractor who defaults on delivery or does not perform in a satisfactory manner as defined in this Agreement may be barred for up to a period of three (3) years, pursuant to K.S.A. 75-37,103, or have its work evaluated for pre-qualification purposes. Contractor shall disclose any conviction or judgment for a criminal or civil offense of any employee, individual or entity which controls a company or organization or will perform work under this Agreement that indicates a lack of business integrity or business honesty. This includes (1) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; (2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property; (3) conviction under state or federal antitrust statutes; and (4) any other offense to be so serious and compelling as to affect responsibility as a state Contractor. For the purpose of this section, an individual or entity shall be presumed to have control of a company or organization if the individual or entity directly or indirectly, or acting in concert with one or more individuals or entities, owns or controls 25 percent or more of its equity, or otherwise controls its management or policies. Failure to disclose an offense may result in termination of the Agreement.

CC. Immigration and Reform Control Act of 1986 (IRCA)

1. Contractor is expected to comply with the Immigration and Reform Control Act of 1986 (IRCA), as may be amended from time to time. This Act, with

certain limitations, requires the verification of the employment status of all individuals who were hired on or after November 6, 1986, by the Contractor as well as any subcontractor or sub-contractors. The usual method of verification is through the Employment Verification (I-9) Form.

2. Contractor certifies without exception that such Contractor has complied with all federal and state laws relating to immigration and reform. Any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and, at the State's option, may subject the Agreement to termination for cause and any applicable damages.
3. Contractor is expected to be able to produce for the State any documentation or other such evidence to verify Contractor's IRCA compliance with any provision, duty, certification or like item under the Agreement.

DD. Worker Misclassification

Contractor and all lower tiered subcontractors under the Contractor shall properly classify workers as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes, and income tax withholding. Failure to do so may result in termination of the Agreement.

EE. Injunctions

Should the State be prevented or enjoined from proceeding with the acquisition before or after Agreement execution by reason of any litigation or other reason beyond the control of the State, Contractor shall not be entitled to make or assert claim for damage by reason of said delay.

FF. Statutes

Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then on the application of either party the Agreement shall be amended to make such insertion or correction.

GG. Materials and Workmanship

1. Contractor shall perform all work and furnish all supplies and materials, machinery, equipment, facilities, and means, necessary to complete all the work required by this Agreement, within the time specified, in accordance with the provisions as specified.
2. Contractor shall be responsible for all work put in under these specifications and shall make good, repair and/or replace, at Contractor's own expense, as may be necessary, any defective work, material, etc., if in the opinion of

agency and/or Procurement and Contracts said issue is due to imperfection in material, design, workmanship or Contractor fault.

HH. Industry Standards

If not otherwise provided, materials or work called for in this agreement shall be furnished and performed in accordance with best established practice and standards recognized by the contracted industry and comply with all codes and regulations which shall apply.

II. Confidentiality of Health Information

Contractor shall establish and maintain procedures and controls acceptable to the State to protect the privacy of members' health information. Unless Contractor has the member's written consent, Contractor shall not use any personally identifiable health information obtained for any reason other than that mandated by this Agreement.

JJ. Off-Shore Sourcing

If, during the term of the Agreement, Contractor or a subcontractor moves work previously performed in the United States to a location outside of the United States, Contractor shall immediately notify the State and the respective agency in writing, indicating the new location the nature of the work to be moved and the percentage of work that would be relocated. The Director of Purchases, with the advice of the respective agency, must approve any changes prior to work being relocated. Failure to obtain the Director's approval may be grounds to terminate the Agreement for cause.

KK. Price Adjustments

1. Prices shall remain firm for the entire Agreement period. Any rate adjustments or commission increases available during the Agreement period shall be offered to the State. Failure to provide available price reductions or commission increases may result in termination of the Agreement.
2. Any price changes will be governed by **Section III.**

LL. Payment

1. Payment Terms are Net 30 days. Payment date and receipt of order date shall be based upon K.S.A. 75-6403(b). If applicable, this Statute requires state agencies to pay the full amount due for goods or services on or before the 30th calendar day after the date the State receives such goods or services or the bill for the goods and services, whichever is later, unless other provisions for payment are agreed to in writing by Contractor and the State. NOTE: If the 30th calendar day noted above falls on a Saturday, Sunday, or legal holiday, the following workday will become the required payment date. Further requirements are specified in **Section III.**

2. Payment schedule shall be on a frequency mutually agreed upon by both the State and Contractor and as detailed in **Section III**.

MM. Upgrades

Contractor shall provide upgrades for any software, firmware, or hardware at no cost to the State throughout the life of the Agreement and any renewal term(s).

NN. Acceptance

No contract provision or use of items by the State shall constitute acceptance or relieve Contractor of liability in respect to any expressed or implied warranties.

OO. New Materials, Supplies or Equipment

Unless otherwise specified, all materials, supplies or equipment offered by the Contractor shall be new, unused in any regard and of most current design. All materials, supplies and equipment shall be first class in all respects. Seconds or flawed items will not be acceptable. All materials, supplies or equipment shall be suitable for their intended purpose and, unless otherwise specified, fully assembled and ready for use on delivery.

PP. Transition Responsibilities of Contractor

Upon the expiration or termination of this Agreement, should the State award any succeeding Agreement for Electronic Messaging and Kiosk Services to a vendor other than Contractor, Contractor agrees to cooperate fully and in all respects with the State and the newly contracted vendor in accomplishing an efficient and effective transfer of responsibilities.

QQ. Access to Correctional Facilities; Training of Contractor's Employees; compliance with Applicable Law by Contractor and Any Approved Subcontractor

1. Any civilian employee of Contractor or approved subcontractor shall be subject to an initial and continuing security clearance by the Wardens of the respective Facilities. A security clearance is required before entrance into the security perimeter of the Facilities. Contractor shall submit the names of the civilian employees, together with an authorization for the release of information signed by the employee on forms provided by the State.
2. In recognition of the sensitive nature of the Facilities, Contractor agrees that in the event that the Warden of any of the Facilities, in the Warden's discretion, is dissatisfied with any Contractor employee who is employed, whether full time or part time, at that facility, KDOC, acting through the Warden, may deny access of such employee to the Facility. The facility Warden shall give written notice to Contractor of such fact and the reasons therefore, and Contractor shall promptly remove the individual in question from employment at the facility and shall cover with other appropriate personnel until an approved replacement is found. Contractor shall include a

provision of like effect in its agreement with any subcontractor providing services on the premises of the Facility.

3. All civilian personnel employed by Contractor or any approved subcontractor pursuant to this agreement shall attend an orientation program and annual training designed by the Wardens of the respective Facilities. Contractor's employees shall promptly notify staff at the Facilities of any security problems that come to their attention.
4. All personnel of Contractor and any approved subcontractor shall comply with the published and written regulations and policies and procedures of KDOC, with general orders from the Facility, and the laws of the State of Kansas and the United States of America. Contractor's personnel shall adhere to the same standards of personal appearance as are applicable to non-uniformed staff of KDOC. Contractor specifically agrees that its employees will comply with KDOC's policy regarding sexual harassment and discrimination.

RR. Resolution of Problems and Disputes

In the event of an operational problem occurring at one or more of the Facilities, Contractor shall notify the Warden of the particular Facility and KDOC's Telecommunications Manager of such problem. If either party believes the other party has violated the terms of this Agreement, the party having such belief shall notify the other party, in writing, of the alleged violation. The parties shall then meet and confer on the issue within five (5) days of receipt of the written notice.

SS. Captions

The captions and headings used herein are provided solely for purposes of convenience, and are not intended to limit or define the meaning of the text to which they apply, or to be used in construing or interpreting this Agreement.

III. RESPONSIBILITIES OF CONTRACTOR

A. General Responsibilities

Contractor shall agree to all terms and conditions set forth in this Agreement, and Contractor shall agree to the specifications, including, but not limited to, the features and functionalities listed in **Attachment A** of this Agreement. If State designates an agent, Contractor shall follow State's direction in working with such Designated Agent.

B. Performance Bond

Within ten (10) days of the execution of this Agreement, Contractor shall furnish KDOC a Performance Bond in the amount of Ten Thousand Dollars (\$10,000.00) which shall be retained during the full term of the Agreement and/or renewal term(s). In the event the State exercises its option to extend the Agreement for an additional term, Contractor shall be required to maintain the validity and enforcement of the Performance Bond for the said period term, pursuant to the provisions of this paragraph, in an amount stipulated at the time of the Agreement

renewal.

C. Insurance

1. During the period of this Agreement, Contractor, at its own expense, agrees to carry and maintain the following minimum insurance policy of public liability and property damage insurance acceptable to the State, issued by a casualty company authorized to do business in the State of Kansas, in standard form approved by the Board of Insurance commissioners of the State of Kansas and with limits not less than those outlined below. The insurance company should have a Best Rating of no less than A. Coverage provisions should insure the State of Kansas and the public from any loss or damage that may arise to any person or property by reason of services rendered by Contractor.
2. Contractor shall provide the State with a thirty (30) day advance written notice of cancellation or material changes in said insurance.
3. Annual renewals for the term of this policy should be submitted prior to the expiration date of any policy.
4. Contractor shall provide the State a Certificate of Insurance on an original ACORD certificate, evidencing required coverage described below, within ten (10) days after receipt of Notice of Award. Said certificate shall show the State of Kansas as an additional insured and shall include a waiver of subrogation:
 - a. **Automobile Liability:**
 - Bodily Injury (Each person) \$250,000
 - Bodily Injury (Each accident) \$500,000
 - b. **General Liability (Including Contractual Liability)**
 - Bodily Injury or Death (per person) \$1,000,000/
 - Property Damage (per incident resulting in injury or destruction of property) \$100,000
 - c. **Excess Liability**
 - Umbrella Form \$1,000,000
 - d. **Workers Compensation** Statutory
5. The insurance required shall be on either an occurrence basis or on claims made basis.
6. State agrees to provide Contractor with reasonable and timely notice on any claim, demand or cause of action made or brought against State arising out of services rendered by Contractor. Contractor shall have the right to defend any such claim at its sole cost and expense and with its exclusive discretion.
7. For any person or contractor with whom Contractor enters into an Agreement to provide the services defined in this RFP, Contractor must:

- a. Provide a certificate of coverage for all persons providing services on a project, showing coverage is being provided for the duration of the contract. Coverage shall be based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Kansas Labor Code.
 - b. Provide, a new certificate of coverage showing extension of coverage if the coverage period shown on the current certificate of coverage ends during the duration of the project.
 - c. Retain all required certificates of coverage on file for the duration of the project and for two years thereafter;
 - d. Notify State in writing, within ten (10) days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
8. Any subcontracts for the products/services described herein shall include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by Contractor and the State and to ensure that the State is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind related to a subcontractor in those matters described in this Agreement.

IV. **PAYMENT AND REPORTING**

A. Compensation

1. Contractor shall pay KDOC commissions on all Gross Revenue as specified in **Attachment C**. Gross Revenue consists of all compensation, earnings, gain, income, generated revenue, payment, proceeds or receipts paid to or received by Contractor and in any way connected to the provision of service pursuant to this Agreement. Gross Revenue includes, by way of example and not limitation, the following: all transaction fees and/or charges generated by incoming messages and attachments, outgoing messages, printouts of messages and printouts of attachments, additional fees and/or charges added to the total cost of a completed transaction or any other compensation received by Contractor.
2. A completed transaction shall be defined as the transfer of funds by the general public to Contractor, receipt of messages/attachments by Contractor's system for processing to the Facility workstations, sending an outgoing message by the inmate to the facility mailroom, request by the inmate via the kiosk for a printout of the message and request by the inmate via the kiosk for a printout of the attachment(s).
3. Contractor shall pay commission on each completed transaction before any deductions are made for unbillable transactions, bad debt, rejected messages, rejected attachments rejected printouts, uncollectible

transactions, fraudulent transactions, merchant adjustments, or any other Contractor expenses.

4. Electronic messages to or from the KDOC staff and the inmate or group of inmates shall not be charged a fee and shall not be included in commissionable transactions.
5. Any new or additional fees and/or charges proposed by Contractor must be approved in advance by KDOC. KDOC and Contractor shall mutually agree on the increased commission to KDOC relative to the new or additional fees added to each of the services/applications.
6. Any charges/fees charged to the customer without the express written consent of KDOC shall incur a fine of Three Hundred Fifty Dollars (\$350.00) per day from the date the additional charges/fees were first added through the date the charges/fees were discontinued. KDOC and Contractor shall mutually agree on charges to be imposed.
 - a. KDOC shall notify Contractor of any unapproved additional fees and/or charges of which KDOC becomes aware of and shall provide Contractor with an invoice for the total fine due, for which Contractor shall remit payment to KDOC within thirty (30) days.
 - b. Should KDOC and Contractor mutually agree that the charges/fees will be imposed, KDOC and Contractor shall mutually agree on a method for compensation.
 - c. Should KDOC and Contractor mutually agree that the charges/fees are to be discontinued, Contractor shall refund each called party for the unapproved charges/fees from the date the charges/fees were implemented until the date the charges/fees were discontinued.
7. Additionally it is expressly understood that KDOC is not responsible in any way, manner or form for any of Contractor's costs, including but not limited to taxes (including sales tax), shipping charges, network charges, insurance, interest, penalties, attorney fees, liquidated damages, licenses, fees, tariffs or other costs related to Contractor's services.
8. Any deviation from this process shall automatically cause Contractor to forfeit their Surety Bond as defined in **Section II, Item B.**

B. Payment and Reporting

1. Payments and reports due to KDOC or its Designated Agent hereunder shall be received by KDOC and/or its Designated Agent no later than the 15th day of the month following the month of activity. Commission payments shall be sent via wire transfer and transaction detail reports shall be sent via electronic format to KDOC or its Designated Agent. KDOC or its Designated Agent will receive commission payments directly from Contractor.

2. Transaction detail reports shall include a detailed breakdown of the activity for all transaction types, including but not limited to, electronic messages, attachments and message/attachment printouts for each kiosk unit. Transaction detail shall include, at a minimum, each of the following items for each kiosk and/or each transaction type:
 - a. Facility Name;
 - b. Facility Identification Number;
 - c. Facility Street Address, City, State, and Zip Code;
 - d. Kiosk Identifier (where applicable);
 - e. Revenue Reporting Period Dates;
 - f. Gross Revenue Per Transaction Type, Per Inmate, Per Kiosk;
 - g. Commission Rate;
 - h. Total Commission Amount Transaction Type, Per Kiosk Per Inmate; and
 - i. Total Number of Transactions per Transaction Type, Per Kiosk, Per Inmate.
3. Commission, invoicing and/or reporting discrepancies must be resolved by Contractor, and to KDOC's reasonable satisfaction, within thirty (30) days of receipt of discrepancy notification from KDOC or its Designated Agent. If not resolved satisfactorily, such discrepancy will be subject to late charges described below and/or the Agreement may be terminated at the sole discretion of KDOC. KDOC further retains the right to pursue any other legal remedies it deems necessary.
4. Payments and/or transaction detail reports received by KDOC or its Designated Agent after the due date specified above will be subject to late charges.
 - a. Late charges and/or fines for commission payments shall be equal to 5% per month of the commission due.
 - b. Late charges for transaction detail reporting shall be a fee of Two Hundred Fifty Dollars (\$250.00) per month for each report not received by the 15th day of the month following the activity month or for each report that does not contain all of the fields and information identified above.
 - c. Late charges for resolution of an invoicing discrepancy shall be a fee of Twenty Five Dollars (\$25.00) for each day that the discrepancy remains unresolved past the initial thirty (30) day period.
 - d. If the commission payment is late, reporting is late and/or reports do not contain all required fields, late charges and/or fines for all three shall apply.

C. Invoicing

To complete the reporting and commissioning processes as outlined in **Section III, Item B**, Contractor shall, by the 15th day of the month following the activity month, submit an inmate transaction fee invoice to KDOC or its Designated Agent for payment by KDOC. The invoice shall contain all transaction fees for inmate

messages, printouts of messages and printouts of attachments collected by KDOC from the inmates for the usage associated with Contractor's kiosks at the Facilities for the previous calendar month. The invoice shall be due and payable by KDOC within thirty (30) days of receipt of the invoice. KDOC shall make such payments only from a special transaction fees account established for this purpose, and in no case shall KDOC be independently responsible for payment of transaction fees.

D. Reconciliation

1. From the Effective Date of the Agreement and for a period of five (5) years after the termination of the Agreement, with ten (10) business day's written notice, KDOC will have the right to examine and/or reconcile Contractor's information (records, data, compensation records) pertaining to the Agreement. KDOC will have the right to allow a State Agency or outside entity/consultant of KDOC's choice, perform any or all audits and examinations pertaining to the contract.
2. KDOC requires Contractor to maintain accurate, complete and reconcilable records, in electronic format, detailing the Gross Revenues from which commissions can be determined.
3. All records shall be stored online for a minimum period of three (3) years and stored offline for a minimum period of five (5) years following the expiration of the Agreement.

ATTACHMENT A

CONTRACTOR RESPONSIBILITIES FOR KIOSK FEATURES AND FUNCTIONALITIES AND RELATED APPLICATIONS

I. Standards

Contractor shall provide all services described in this Agreement relative to Electronic Messaging and Kiosk Services in correctional facilities.

II. Installation Requirements

- A.** For each installation, Contractor shall submit an implementation plan, which shall include an installation schedule, for each facility. The implementation plan will become a part of the Agreement and must be followed. Initial installations must be completed within seventy five (75) days from the date the State provides written notification that the RFP has been awarded to Contractor and implement the following Applications for Facilities:
1. Trust Account Look-Up;
 2. Inbound Electronic Messaging with Attachments;
 3. Printouts of Inbound Electronic Messages and Attachments,;
 4. Outbound Electronic Messaging;
 5. Attachments for Outbound Electronic Messaging (If Implemented by KDOC) and
 6. Inmate Debit Telephone Account Purchases.
- B.** Contractor has begun discussions on implementation of the Electronic Calling List Submissions Application with KDOC and said Application shall be implemented within one hundred and eighty (180) of the execution date of this Contract.
- C.** At KDOC's discretion, KDOC may implement Contractor's Electronic Grievance Application at any time during this Contract and any renewal terms.
- D.** If any portion of the installation is not completed within the timeframe allowed in the agreed-upon implementation plan, Contractor may incur liquidated damages in the amount of Five Hundred Dollars (\$500.00) per day for each day beyond the installation date that the installation is incomplete. However, Contractor shall not incur liquidated damages if the cause of the delay is beyond the Contractor's reasonable control.
- E.** Contractor shall be responsible for providing and installing tamper-resistant and durable kiosk units suitable for a correctional environment. Each kiosk, at a minimum, shall be equipped with a monitor with tempered glass and a built-in keyboard and mouse, at no cost to KDOC. Contractor may install a "soft-kiosk" model at select minimum security locations designated by KDOC and only upon KDOC's request/approval.
- F.** Contractor shall install the quantity of kiosk units specified in **Attachment B**.

- G.** Contractor shall install, repair and maintain all Contractor provided equipment at no cost to KDOC. All Contractor provided equipment, installation, maintenance, and repair costs as well as costs or losses due to normal wear and tear and/or vandalism shall be the total responsibility of the Contractor.
- H.** Contractor shall install kiosk units throughout each Facility to ensure an inmate to kiosk ratio of seventy (70) inmates to every one kiosk.
- I.** Contractor agrees to obtain KDOC's written permission before proceeding with any work that requires cutting into or through beams, concrete or tile floors, partitions or ceilings, or any work that may impair fireproofing or moisture proofing, or potentially cause any structural damage.
- J.** KDOC agrees to assist Contractor with the file integration, network set-up, banking integration and provide Contractor with physical access to the Facilities so that Contractor can install and implement the Applications within the Implementation Period.
- K.** KDOC agrees to allow Contractor the use of KDOC's Existing Wiring available at the Facilities. Existing Wiring shall include all data connectivity from the data ports to the Contractor's servers including all switches and required power. Contractor shall be responsible for installing new and additional network circuits at no cost to KDOC, as determined necessary, to support the provision of the outlined services/applications. Should KDOC be required to purchase additional bandwidth to support Contractor's Applications, Contractor shall be responsible for reimbursing KDOC.

 - 1. KDOC will submit an invoice to Contractor. Payment of the invoice shall be made to KDOC within thirty (30) days of Contractor's receipt of the invoice.
- L.** Ownership of any wiring or conduit placed at the Facilities by Contractor becomes KDOC's property upon the termination and/or expiration of the Agreement.
- M.** Contractor agrees that if any cabling work is required, all new cables shall be used and marked clearly and legibly at both ends and must meet all applicable EIA/TIA wiring standards for commercial buildings.
- N.** Contractor, upon receipt of written approval from KDOC, may be allowed to use inmate labor to assist with any cabling/wiring installation; however, Contractor shall be responsible for utilizing its own crews for the kiosks and other hardware equipment. Further Contractor agrees to follow KDOC policy and procedures in utilizing inmate labor.
- O.** Installation of all equipment shall be accomplished during normal business hours at each Facility or as directed by the individual Facility's Warden.
- P.** Contractor shall clean and remove all debris and packaging material resulting from work performed.

- Q.** Contractor shall restore to original condition any damage to KDOC's property caused by maintenance or installation by personnel associated with Contractor, including repairs to walls, floors, ceilings, etc., reasonable wear and tear excepted.
- R.** Upon the completion of the initial installation and ongoing installations, Contractor must provide KDOC with a list of all serial numbers and identifiers for each installed kiosk.
- S.** At no cost to KDOC, Contractor shall install additional kiosks and necessary bandwidth as needed, within thirty (30) days of request. This includes newly constructed or expanded Facilities. If Contractor does not have kiosks in stock to meet the thirty (30) day due date, Contractor shall request an extension for approval by KDOC; the extended installation date shall not exceed ninety (90) days from the initial request date.

 - 1. If the installation is not completed within thirty (30) days, Contractor may incur liquidated damages in the amount of Five Hundred Dollars (\$500.00) per day for each day beyond the installation date that the installation is incomplete. However, Contractor shall not incur liquidated damages if the cause of the delay is beyond the Contractor's reasonable control.
 - 2. Should Contractor incur liquidated damages, KDOC will invoice Contractor. Payment of the invoice shall be made to KDOC within thirty (30) days of Contractor's receipt of the invoice.
 - 3. KDOC, at its sole discretion, may waive liquidated damages.

III. Transition

- A.** Upon expiration, termination, or cancellation of the Agreement, Contractor shall accept the direction of KDOC to ensure electronic messaging and all kiosk services outlined in this Agreement are smoothly transitioned. At a minimum, the following shall apply:

 - 1. Contractor acknowledges that the messages, documentation, reports, data, etc., contained in the Applications are the property of KDOC. KDOC acknowledges the kiosk hardware and software are the property of Contractor.
 - 2. At no cost to KDOC, Contractor shall supply the requested number of workstation(s) as specified in **Attachment B** which shall become the property of KDOC after expiration, cancellation or termination of the Agreement to allow KDOC access to all messages, documentation, reports, data, etc. contained in the kiosk application.
 - 3. Contractor shall discontinue providing service or accepting new assignments under the terms of this Agreement, on the date specified by KDOC. Contractor agrees to continue providing all services in accordance

with the terms and conditions, requirements and specifications of the Agreement for a period not to exceed 90 calendar days after the expiration, termination or cancellation date. Commissions shall be due and payable by Contractor to KDOC at the rate provided in the Agreement until kiosk services are no longer handled by Contractor.

- B. Contractor agrees to remove its equipment at the conclusion of this Agreement in a manner that shall allow the reuse of wiring/cabling associated with the kiosk services

IV. Kiosk and User Application Specifications

- A. The kiosks shall be configured to only allow inmates access to the Applications approved by KDOC. Additional applications shall be mutually agreed upon by KDOC and Contractor. Inmates shall be prohibited from having any access to the internet or any external applications. The kiosks must communicate with preapproved applications and servers only.
- B. The kiosks shall not compromise KDOC's local area network or security. The kiosks are to be placed on a virtual or separate network with port locks and firewall rules in place.
- C. Each kiosk unit shall include a card reader mechanism to allow for the inmate's ID card to be swiped for verification of the inmate's identity. Contractor's system shall be capable of auto-generating a unique password for each inmate upon initial registration to be used in conjunction with the inmate's ID card.
 - 1. Should the security of the kiosks be compromised, Contractor shall incur a fine of Three Hundred Fifty (\$350.00) per day from the date Contractor is notified by KDOC or its Designated Agent until the security of the kiosks has been resolved to the satisfaction of KDOC. KDOC will submit an invoice to Contractor. Payment of the invoice shall be made to KDOC within thirty (30) days of Contractor's receipt of the invoice.
- D. The kiosks shall be configurable relative to the number of login sessions per inmate, per kiosk or group of kiosks. The duration for each session shall be configurable and shall be designated by KDOC.
- E. The kiosks shall be configurable relative to the number of login sessions per day.
- F. The kiosks shall be configurable relative to discontinuing an inmate's session due to inactivity during and after login while utilizing the Application. The inactivity length shall be determined by KDOC.
- G. The kiosks shall be configured with an automatic schedule dictating the time of day the kiosks are available for use. The schedule shall be configurable per kiosk or group of kiosks.
- H. The kiosks shall have the capability to allow incoming and outgoing electronic

messaging.

1. Electronic messages shall be limited to 5,000 characters.
2. Inbound electronic messages from the general public (party) may include attachments. The file size per attachment shall not exceed one (1) megabyte (MB). Each electronic message shall be limited to a maximum of five (5) attachments.
3. The party sending an inmate an electronic message may be provided the opportunity to prepay for the inmate's response to the electronic message being sent.
4. Inmates may request a printout of an electronic message or an attachment via the kiosk and while logged into his/her individual account. Inmates shall not incur a cost for viewing an electronic message or attachment.
 - a. Electronic messages and/or attachment prints shall be processed through the Facility's mailroom, following KDOC's processes and procedures for regular mail received by the Facility.
 - b. Each electronic message and/or attachment print, at a minimum, shall include the inmate's first and last name, current housing unit, and the inmate's identification number.
5. Inbound electronic message attachments shall have the capability to include a thirty (30) second video message.
6. Transaction fees charged to the party or to the inmate for each electronic message and video message are identified in **Attachment C**.
7. Inmates shall be allowed to send an electronic invitation to a party from the kiosks requesting electronic communication with the party. To submit the invitation, the inmate must be required to include the full email address of the party.
 - a. Invitations shall not contain any personal messages and shall be in a generic format from the named inmate.
 - b. The invitation shall clearly state that it is from a correctional facility and provide instructions on how the recipient may refuse the invitation and how to notify KDOC if they do not wish to receive invitations from inmates in KDOC facilities.
 - c. Invitations shall not be sent to any given email address more than twice.
 - d. Contractor's system shall have the capability to globally block invitations by domain (ex: .gov).

- e. Contractor's system shall have the capability to block specific email addresses from receiving an invitation from all KDOC inmates.
8. Inmates shall be limited to responding to received electronic messages and writing new electronic messages only to a party from which an inmate has previously received an electronic message or from a party which accepted an invitation from an inmate.
9. Inmates shall be prohibited from initiating an electronic message to a party from which the inmate has never received an electronic message.
10. The kiosks shall allow for electronic messages to be sent from the KDOC staff to the inmates or a group of inmates as designated by KDOC. Groups shall be configurable ranging from inmates in a particular cell house or living unit, a specific security perimeter of a Facility, an individual Facility or selection of Facilities, or all inmates within KDOC Facilities. Kiosks shall be capable of allowing inmates to initiate an electronic message or reply/respond to the KDOC staff electronic messages via the kiosks. Kiosks shall allow the inmate to staff messaging capability to be disabled by KDOC approved users on an individual basis without impacting an inmate's ability to correspond with family/friends. All electronic messages between inmates and KDOC staff shall be at no cost to the inmate or KDOC.
11. The kiosks shall allow inmates at the Facilities to retain an inbox of received electronic messages. The inbox limit for read and unread electronic messages shall be configurable and designated by KDOC. Upon an inmate's release or transfer out of KDOC custody, the inmate's account must be deactivated. However, the inmate's activity and data shall be stored for a minimum of one year after deactivation to allow for monitoring and administration by KDOC.
12. The kiosks shall allow inmates at the Facilities to retain a draft folder of electronic messages. KDOC shall have access to view an inmate's draft folder.
13. Contractor shall provide a chart of all transaction fees and post by each kiosk or group of kiosks.
 - I. KDOC will supply Contractor a daily file with inmate housing location four (4) times a day.
 - J. Kiosks shall be capable of restricting access to inmates based on housing location.
 - K. Kiosks shall be capable of restricting/suspending an inmate's access for a period of time as designated by KDOC.
 - L. Contractor shall work with the current contracted inmate telephone provider to allow inmates to request debit telephone purchases using Contractor's kiosk application.

1. Contractor shall send a file each business day to KDOC to validate funds in the inmate trust accounts. KDOC will validate the purchases and send a return file to Contractor containing validated purchases. Contractor shall send the inmate notification if the purchase was not validated. Contractor shall then send the file each business day to the inmate telephone provider with the inmate debit purchases. It is the Contractor's responsibility to create and establish a business relationship and necessary integration. KDOC shall not be responsible for paying any amounts associated with the required integration.
- M.** Contractor shall provide a method for inmates to submit a telephone calling list through Contractor's kiosk application at no cost to KDOC and as directed by KDOC.
1. Contractor's kiosk application shall allow an inmate to view their current calling list via the kiosk application.
 2. Contractor's application shall allow an inmate to submit an initial calling list as well as make changes to an existing calling list.
 3. Contractor's application shall have the capability to allow designated users to approve the calling lists. Once calling lists are approved, Contractor shall submit the calling lists to the inmate telephone provider to be posted.
- N.** Contractor shall interface with KDOC's banking system for the purpose of validating inmate account balances, at no cost to KDOC.
- O.** The kiosk, upon each login, shall provide the inmate with an option to obtain his/her account balance. KDOC will provide Contractor a direct link to the KDOC banking application allowing inmates access to their trust account using Contractor's kiosk application.
- P.** If an inmate does not have sufficient funds to process a transaction, the kiosk shall provide the inmate with a decline message stating there are insufficient funds in the account to process a transaction.

V. Monitoring and Administration of Kiosks and Featured Applications

- A.** Contractor shall provide KDOC and its Designated Agents with remote access to its centralized system for the purpose of administering, monitoring, overseeing and reviewing transactions associated with the applications/services provided by Contractor. Access levels per user shall be configurable at the direction of KDOC. Remote access shall be provided by Contractor at no cost to KDOC or its Designated Agents.
- B.** Contractor shall provide and install the number of workstations and color printers specified in **Attachment B** for each Facility mailroom. Contractor shall be responsible for providing the supply of paper and toner at no cost to KDOC throughout the life of the Agreement and any renewal term(s).

- C. Access to Contractor's system shall require the use of a username and password. The access levels shall be designated by KDOC and/or its Designated Agent.
- D. The kiosk shall have the capability to record all activity of the user in an auditable format which may be tracked through Contractor's system.
- E. Kiosk shall be capable of taking a photo of the inmate utilizing the kiosk, minimally at the beginning of the session and preferably at subsequent times throughout the session.
- F. During the life of the Agreement and any extensions, Contractor shall store all messages, reports and data indefinitely. Contractor shall store all messages, reports and data online for a period of six (6) months and offline for a period of five (5) years beyond the last date of service under this Agreement and any extensions. Archived and/or offline messages, reports and data shall be retrieved and provided by Contractor to KDOC within two (2) business days upon receipt of the requested messages, reports and/or data.
- G. Each incoming and each outgoing message and/or attachment shall be routed by Contractor's system to the Facility's mailroom workstation(s) for review and approval in accordance with KDOC's censorship's rules and regulations. Contractor shall ensure no messages can be viewed by the inmates prior to approval by KDOC and/or the mailroom staff. Contractor's system shall identify or group electronic messages based on the status of the messages i.e. awaiting approval from KDOC, released to inmates, censored, etc. in order for staff to easily identify messages that require further attention.
- H. Should KDOC reject a message and/or an attachment, Contractor's system shall transmit a notification message to the party initiating the message and/or attachment and to the inmate in which the electronic message was addressed indicating that the message and/or attachment has not been approved for delivery as well as the reason for which the message and/or attachment was not approved.
 - 1. Contractor's system shall allow users to select the reason for censoring the electronic message or attachments using a drop down box. Censoring reasons shall be specified by KDOC.
- I. Contractor's system shall have the capability for KDOC and its Designated Agents to view all stored passwords for inmate kiosks accounts as well as the capability to reset an individual password.
- J. Contractor's system shall have the capability for KDOC and its Designated Agents to allow KDOC to query all messages, attachments and data stored for the Facilities.
- K. Contractor's system shall have the capability to alert KDOC personnel of specific activity based on pre-set criteria in Contractor's system, through email.

- L. Contractor's system shall have the capability to translate messages. The required languages are Spanish and English.
- M. Contractor's system shall have the capability to disable and/or shut off service to a kiosk or group of kiosks based on the user level and password.
- N. Contractor's system shall have the capability to track certain activities and patterns. The following reports (at a minimum) shall be made available for monitoring and investigative purposes. New reports, as requested by KDOC, shall be produced by Contractor at no cost to KDOC.
 - 1. Messages by inmates;
 - 2. Messages by sender;
 - 3. Messages by kiosk or group of kiosks;
 - 4. Unified inmate data sets;
 - 5. Daily, weekly and monthly statistics;
 - 6. Totals by inmate;
 - 7. Totals by kiosk;
 - 8. Totals by Facility; and
 - 9. Totals by transaction type.
- O. The Application shall provide the capability of conducting data analysis including, but not limited to, providing reports which identify if multiple inmates are receiving electronic messages from the same party, a party receiving electronic messages from multiple inmates, etc.
- P. Contractor's system shall provide the capability to customize reports in a format mutually agreed upon by KDOC and/or its Designated Agent and Contractor and at no cost.
- Q. Contractor's system shall have the capability to capture all activity and tasks performed by each system user.

VI. Security

All Contractor employees shall obtain, at Contractor's cost, the appropriate personnel background security clearance prior to arrival at the Facilities. All Contractor employees shall comply with KDOC's policy and procedures. Entry to the Facilities is subject to the approval of KDOC.

VII. Training

- A. Contractor shall provide onsite training to KDOC's staff. Additional training (onsite or via the web) shall be provided to new staff at no cost to KDOC. Training manuals shall be provided to KDOC's staff at all training meetings and will become the property of KDOC.
- B. When requested by KDOC, informational pamphlets shall be available to inmates and shall describe the applicable features and functionalities of the Applications.

- C. Contractor shall provide full documentation for all of the Application features.

VIII. Kiosk Upgrades and Performance Process

- A. Contractor shall provide KDOC with written notice, including detailed information, of any new software upgrades or features, within two (2) weeks of the introduction of the new software or features into the industry.
- B. Contractor shall adhere to this Performance Process when upgrading the kiosk software, equipment, or performing any changes to the kiosks at the Facilities. Any deviation from this process may result in liquidated damages incurred by Contractor. Such liquidated damages will be equal to Three Hundred Dollars (\$300.00) per occurrence. Contractor will be notified of the total amount due via written notice from KDOC. KDOC will invoice Contractor and payment shall be due within thirty (30) days of Contractor's receipt of invoice.
- C. Contractor shall perform extensive testing on all system changes or upgrades prior to introducing them to the KDOC.
- D. Contractor shall receive written permission from KDOC, before scheduling or proceeding with any functionality changes to the kiosks at the Facilities, especially if the changes will cause an interruption in service.
- E. Contractor shall provide KDOC with written details regarding any changes made to the kiosks at the Facilities.
- F. KDOC, at its option, shall have a minimum of one (1) week to notify inmates at the Facilities of any kiosk changes that affect the inmates.
- G. Contractor shall work with the Facilities to schedule changes and/or upgrades during a time when the kiosks are not being used regularly by the inmates. Contractor shall coordinate a convenient time and day with KDOC to implement the changes or upgrades to the kiosks to avoid an interruption in service.
- H. All said changes shall be made by Contractor at no cost to KDOC.

IX. General Maintenance

- A. Contractor shall provide all the necessary labor, parts, materials and transportation to maintain all kiosks in good working order and in compliance with the equipment manufacturer's specification throughout the life of the Agreement and any renewal term(s).
- B. Contractor shall have the capability to perform remote diagnostics to determine if a problem is associated with the kiosk unit, network or featured application.
- C. Contractor shall respond to repair requests from KDOC by arriving at the site

promptly after reasonable notice has been given on a 24-hours a day, 7- days a week basis, 365-days a year.

- D.** Repairs or replacement of nonworking or damaged equipment or software shall be started by a qualified technician within 4 hours following notification of a service request. Contractor must exhibit to KDOC a best effort approach to the completion of the repairs or replacement within 48 hours following the receipt of notification of a problem. KDOC shall be notified of progress and or delays in progress until the problems are resolved. Contractor shall notify KDOC or its Designated Agent, any time a technician shall be dispatched to the Facilities and prior to the technician's arrival.
- E.** Contractor shall ensure that all kiosks are operable at least 98% of the time on a daily, weekly and monthly basis. This requirement excludes down-time associated with regularly scheduled maintenance/upgrades or facility lock-downs which require the kiosks to be shut-off.
- F.** KDOC may cancel this Agreement if Contractor has not cured a service problem within ten (10) days of Contractor receiving notice of the problem from KDOC or its Designated Agent.
- G.** Each party shall report to the other party any misuse, destruction, damage, vandalism, etc. to the kiosks. Contractor shall assume liability for any and all such damages.
- H.** All operation, maintenance and repair issues regarding the kiosk service shall be reported by Contractor to KDOC promptly.
- I.** Contractor shall provide KDOC or its Designated Agent a monthly report identifying the repair and maintenance items for each kiosk.
- J.** No charge shall be made to KDOC for maintenance of the kiosks.

ATTACHMENT B

Main Facilities:

El Dorado Correctional Facility
1737 SE Hwy 54, PO Box 199
El Dorado, KS 67042-8264

Ellsworth Correctional Facility
1607 State Street
Ellsworth, KS 67439-1628

Hutchinson Correctional Facility
Central Unit
500 Reformatory Road
Hutchinson, KS 67501-1628

Lansing Correctional Facility
301 E. Kansas
Lansing, KS 66043-1619

Larned Correctional Mental Health Facility
1318 Highway 264
Larned, KS 67550

Norton Correctional Facility
11130 Road E-4
Norton, KS 67654

Topeka Correctional Facility
815 SE Rice Road
Topeka, KS 66607

Wichita Work Release Facility
401 S. Emporia
Wichita, KS 67202

Winfield Correctional Facility
1806 Pinecrest Circle
Winfield, KS 67156

Satellite Facilities:

El Dorado Correctional Facility
North Unit
Rt. 3, Box 45A
El Dorado, KS 67042

El Dorado Correctional Facility
South East Medium Unit
2501 West 7th
Oswego, KS 67356

El Dorado Correctional Facility
South East Minimum Unit
1022 Fordyce
Oswego, KS 67356

Ellsworth Correctional Facility
East Unit
1655 Avenue K.
Ellsworth, KS 67439

Hutchinson Correctional Facility
East Unit
500 Reformatory Road
Hutchinson, KS 67501-1628

Stockton Correctional Facility
1210 E. Cedar
Stockton, KS 67669

ATTACHMENT B (Continued)**Inmate Kiosks Required**

Facility Name	# of Inmate Soft Kiosks	# of Inmate Hard Kiosks
El Dorado Correctional Facility (Including North Unit & Southeast Units)	3	15
Ellsworth Correctional Facility (Including East Unit)	4	10
Hutchinson Correctional Facility (Including South Unit)	3	16
Hutchinson Correctional Facility – East Unit	0	6
Lansing Correctional Facility	9	26
Larned Correctional Mental Health Facility	0	7
Norton Correctional Facility	1	11
Stockton Correctional Facility	1	0
Topeka Correctional Facility	7	6
Wichita Work Release Facility	1	0
Winfield Correctional Facility	9	0

Workstations and Printers Required

Facility Name	# of Workstations and Printers
El Dorado Correctional Facility (Including North Unit and Southeast Units)	1
Ellsworth Correctional Facility (Including East Unit)	1
Hutchinson Correctional Facility (Including South Unit)	1
Hutchinson Correctional Facility – East Unit	0
Lansing Correctional Facility	2
Larned Correctional Mental Health Facility	1
Norton Correctional Facility	1
Stockton Correctional Facility	0
Topeka Correctional Facility	1
Wichita Work Release Facility	1
Winfield Correctional Facility	1

ATTACHMENT C**INMATE KIOSK SERVICE: FEES AND COMMISSIONS**

Service / Application Name	Fee Amount	Commission Amount Per Transaction
Each Electronic Message with or without Attachment(s)	\$0.35	\$0.05
Each Attachment to an Electronic Message	\$0.35	\$0.05
Each Electronic Message Printout	\$0.35	\$0.05
Each Attachment – Black and White Print	\$0.35	\$0.05
Each Attachment – Color Print	\$1.00	\$0.05
Each Video Message Attached to an Electronic Message	\$1.75	\$0.25

ATTACHMENT D

State of Kansas
 State of Kansas
 Department of Administration
 DA-146a (Rev. 10-11)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 10-11), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____ 20_____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges-hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor

agrees to be bound by the provisions thereof.

9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement