



ADDENDUM #2

November 28, 2022

TO: ALL POTENTIAL SUBMITTERS

FROM: RON VENTURELLA, BUNCOMBE COUNTY PROCUREMENT MANAGER

SUBJECT: ADDENDUM #2 FOR DETENTION CENTER PHONE SERVICE

The following changes, revisions, additions, and/or clarifications to the plans and/or specifications are hereby made a part of the original documents.

Addendum # 2

1) The following are changes to the RFP Schedule.

Per request from several parties the proposal date has been moved back to December 15, 2022.

Sections 2.3 RFP Schedule & 2.5 Proposal Submittal, shall now read:

2.3 RFP SCHEDULE

The table below shows the *intended* schedule for this RFP. The County will make every effort to adhere to this schedule.

Event	Responsibility	Date and Time
Issue RFP	County	11/07/2022
Submit Written Questions	Vendor	11/21/2022 5:00pm
Provide Response to Questions	County	11/28/2022
Submit Proposals	Vendor	12/15/2022 2:00pm
Contract Award	County	01/02/2023
Contract Effective Date	County	01/09/2023

2.5 PROPOSAL SUBMITTAL

Proposals will be received until 2:00pm, December 15, 2022. All proposals may be submitted in a sealed envelope(s) or electronically submitted via email and properly identified with the RFP: *Detention Center Phone Service*.

Proposals shall be emailed to:

Ron Venturella, Procurement Manager
Ron.venturella@buncombecounty.org

The County's capacity for email attachments is 9mb. It is the bidder's responsibility to ensure the proposal is received prior to the proposal acceptance time. Late proposals will not be accepted. The County reserves the right to accept or reject all or any part of any proposal, waive informalities and award the contract to best serve the interest of the County. It is the responsibility of the applicant that their proposal is received. Receipt of proposals can be verified by calling 828-250-4154.

2) The following questions were asked by potential bidders (listed in no particular order):

1. Will the County grant a two-week submission extension due to the Thanksgiving holiday and the quick turnaround of County's responses to questions and the required ship date? [The submission date for proposals has been moved to December 15, 2002, 2:00pm.](#)

2. Regarding the Evaluation Criteria, are points or percentages being given as part of the evaluation and how are these points allocated? [Once the review committee has been assembled the scoring criteria will be decided.](#)

3. If points or percentages are being given, what is the distribution of points related to the "Cost" as it relates to the offered commission versus rates, and how are these points calculated? [Once the review committee has been assembled the scoring criteria will be decided.](#)

4. Will any supplemental services proposed by vendors be included as part of the overall evaluation of the RFP response and will points be allocated? [Once the review committee has been assembled the scoring criteria will be decided.](#)

5. So that each vendor can provide the most accurate quote/financial offer, can you please provide a housing breakdown by facility and housing unit, along with the current ADP for each housing unit, average population, and its respective maximum capacity? [ADP for October,22 = 445, ADP for September,22 = 447. Max capacity = 604](#)

6. Will the County please confirm if vendors are able to provide multiple financial offers by clearly identifying each separate offer? How will the multiple offers be evaluated? [Submitters may provide multiple offers separately. Each proposal will be evaluated individually.](#)

7. Can the County please provide call detail records and commission reports for the last 12 months?

Total spend for the year: \$339,584.58 - (\$161,740.98 + \$177,843.60)

— Video Call spend for the year: \$133,052.20 - (\$82,255.60 + \$50,796.60)

—Voice Call spend for the year: \$202,066.29 - (\$71,618.88 + \$130,447.41)

— — Intrastate Voice Call spend for the year: \$163,446.12 - (\$57,849.00 + \$105,597.12)

— — Interstate Voice Call spend for the year: \$38,535.84 - (\$13,769.88 + \$24,765.96)

— — International Voice Call spend for the year: \$84.33 - (\$0.00 + \$84.33)

— Message spend for the year: \$10,330.00 - (\$7,866.50 + \$2,463.50)

— — Video Message Spend: \$10,330.00 - (\$7,866.50 + \$2,463.50)

Video Calls for the year: 94,766

— Welcome video calls: 0

Total Video Call Minutes: 670,568

— Offsite Visitor Video Call Minutes: 670,568

— — Welcome Video Call Minutes: 0

— Lobby Visitor Video Call Minutes: 0

Paid Video Call Minutes: 411,278

Voice Calls for the year: 237,877 - (79,764 + 158,113)

— Free Voice Calls for the year: 3,023

Total voice Call Minutes: 1,683,575 - (596,833 + 1,086,742)

— Intrastate voice Call Minutes: 1,362,074 - (482,084 + 879,990)

— Interstate voice Call Minutes: 321,132 - (114,749 + 206,383)

— International voice Call Minutes: 369 - (0 + 369)

— Free voice Call Minutes: 9,980

8. Does the County currently receive commission and if so, can you provide the current commission by call type? [Yes, 35% on phone revenue share and 15% on video revenue share.](#)

9. Can the County clarify if commissions from the contract go to the Inmate Welfare Fund, the Sheriff's Office Discretionary Fund, or to the County General Fund?
[Inmate Welfare Fund](#)

10. Will the County please outline the fees that are being charged by the current vendor?
[September 2022](#)

1. Gross revenue for the month \$23,973.00, Total tax \$ 1,678.11
2. Revenue Share
 - a. \$14,983.09 Phone revenue share (35%) = \$ 5,244.08
 - b. \$8,989.91 Video revenue share (15%) = \$1,348.49
 - c. Facility Revenue Share \$6,592.57
3. Fees and Deductions
 - a. Monthly Internet Charges - \$64.98
 - b. Cost Recovery Fee - 146.83
 - c. Investigative Platform Biometrics - \$1,816.39
 - d. Investigative Platform Transcription - \$1,816.39
 - e. Entertainment - \$77.65

11. Will the County provide the hardware counts needed in the RFP?

13 Housing Units and Two Booking Areas

North Tower Phones

6th floor 12 Phones

5th floor 12 Phones

4th floor 10 Phones

3rd floor 1 Phone

2nd floor booking 4 Free Phones

Central Tower Phones

1st floor 18 Phones

2nd floor housing 6 Phones, 2nd floor Booking 5 free phones

3rd floor 6 Phones

Annex

6 Phones

80 Total Detainee Phones

12. Would the County agree to accept an electronic signature for this proposal response in lieu of an ink signature, from an Executive Vice President who is authorized to bind the company?

Yes, the County can accept electronic signature for this proposal.

13. Can the County clarify the contract extension length as well as number of extension periods?

Contract extensions can be negotiated.

14. Furthermore, will extensions require a contract amendment or if they occur automatically?

Any auto renewal must comply with North Carolina General Statute 75-41.

15. Will it be acceptable for vendors to include copies of sample agreements as attachments for the County's consideration and review? Submitters may provide any material they deem necessary.

16. Section 5.0 on RFP p. 6 states, "A percentage of the profit shall be donated to the Sheriff's Community Fund." Does the County or the phone vendor pay this donation? What amount is currently being donated?

Vendors make the donation, current contracts are %5 of net profit.

17. Section 4.2 on RFP p. 5 states, "Free phone service for indigent detainees as well as booking and intake." How many free calls are provided to each detainee, whether indigent or in booking/intake?

All phone calls in booking and intake will be free. 9 phones having free calls.

18. How much of the population is indigent? 15-18%

19. Are indigent inmates receiving any free services other than phone calls – e.g. video visits, emails, etc.? One free 15-minute visits per week.

20. In order to provide our best possible offer, it is very important to have historical usage data for all revenue streams. This data is necessary to estimate costs as well as potential revenues. The current vendor has access to this information, so distributing the information to other vendors in a timely fashion will ensure a level playing field for all bidders. Please provide as much data as possible from the following table: Please see question #7

Call Category	# of Calls Per Month	# of Minutes Per Month	Total Revenue Per Month
LOCAL – Collect			

INTRALATA – Collect			
INTERLATA – Collect			
INTERSTATE – Collect			
LOCAL – Debit			
INTRALATA – Debit			
INTERLATA – Debit			
INTERSTATE - Debit			
International - Debit			
LOCAL – PrePaid Collect			
INTRALATA – PrePaid Collect			
INTERLATA – PrePaid Collect			
INTERSTATE – PrePaid Collect			
Tablet Revenue	# Transactions Per Month	Cost Basis (per minute / message / month / song purchase, etc.)	Total Revenue Per Month
Tablet Lease			
Electronic Messaging			
Video Messaging			
Entertainment Content			
Video Visitation Revenue	# Visits Per Month	# of Minutes per Month (if minute based)	Total Revenue Per Month
Video Visitation			

21. Please provide several recent commission reports for the Jail, showing calls, minutes and revenue (or at minimum calls and minutes).

See question #7 and # 10.

22. Please provide average monthly revenue data for any additional services offered under the current contract, such as voicemail, messaging, etc.

— Message spend for the year: \$10,330.00 - (\$7,866.50 + \$2,463.50)

— — Video Message Spend: \$10,330.00 - (\$7,866.50 + \$2,463.50)

23. In order to help us evaluate usage data and recognize additional revenue potential, it is very helpful to have the rates currently being charged to end-users under the current contract. Please provide the following information: See question # 7

Call Category	Rate for First Minute	Rate for Each Additional Minute
LOCAL – Collect		
INTRALATA – Collect		

INTERLATA – Collect		
INTERSTATE – Collect		
LOCAL – Debit		
INTRALATA – Debit		
INTERLATA – Debit		
INTERSTATE - Debit		
International - Debit		
LOCAL – PrePaid Collect		
INTRALATA – PrePaid Collect		
INTERLATA – PrePaid Collect		
INTERSTATE – PrePaid Collect		
Tablet Rates	Rate Charged	Cost Basis (flat rate or per-minute fee)
Tablet Rental Fee		
Movie Rental		
TV Show Rental		
Music		
Games		
Video Rentals		
Video Purchases		
Video Visitation Rates	Per-Visit or Per-Minute Rate	Cost Basis (per visit or per minute)
Video Visit		
Messaging Rates	Rate Charged	Cost Basis (per message or per minute)
Voicemail		
Email or Text Message		
Video Message		

24. Does the current vendor offer any alternate calling types, such as Advance Pay, PayNow or Text-to-Connect? If so, what are the rates and fees charged for these calls?
[Not to our knowledge](#)

25. Please outline the fees that are being charged to end-users:

- a. Bill Statement Fee [Answered in question 10](#)
- b. PrePaid Account Funding Fee via Web [UNK](#)
- c. PrePaid Account Funding Fee via IVR [UNK](#)
- d. PrePaid Account Funding Fee via Live Operator [UNK](#)
- e. Fees for Instant Pay Calls [UNK](#)

26. Please provide a copy of all current contracts and amendments pertaining to all services under this RFP. [See attached.](#)

27. Please provide the total average monthly commissions received for all services received over the past year from the current vendor. [See question #7 and question number #10](#)
28. Does the County receive commissions on revenue generated by interstate calls today?
[See question #7, #8, and #10.](#)
29. Does the County require that proposals include commissions on interstate calls? [Yes](#)
30. Please provide a breakdown of the inmate population, in percentages or actual numbers, by local, DOC, or other agency. [2021 ADP was 426. 2022 ADP year to date 456.](#)
31. Please provide the average daily population for 2022, broken down by month, if possible?
[Jan. 444, Feb. 439, Mar. 415, Apr. 431, May 465, Jun. 446, Jul. 471, Aug. 448, Sep. 447, Oct.445](#)
32. What is the bed count of the facility? [604](#)
33. Is the inmate trust account managed through the commissary system or the Jail Management System or other system? If other, please specify. [Through the commissary system.](#)
34. Commissary Integration – Please provide the name and contact information for the current commissary vendor. [Kimble Food by Design. 607 Hines St, Lagrange, GA 30241. Phone Number: \(706\)884-5527](#)
35. Jail Management Integration – Please provide the name and contact information for the current JMS vendor. [Central Square 4161 Piedmont Parkway, Suite 270 Greensboro NC 27410
Phone Number: 833-278-7877](#)
36. Please provide the name and contact information for the current deposits' services vendor. [Answered in question 34.](#)
37. Please provide the schedule in which the inmates have access to the inmate phones.
[Schedule varies by housing unit, time of day and staffing. On average detainees receive 4 hours of free time a day when they can access the phones.](#)
38. How is commissary ordered today? [Through a Kiosk](#)
39. Does the current vendor provide debit calling? If so, how are debit accounts funded – e.g., through an inmate's trust account, lobby kiosk, phone / website payments, etc.? Please list all available methods. [Inmate's trust account, lobby kiosk, website](#)
40. Are calling cards being used today? If so, how are they purchased and given to the inmate? What denominations are available? [No](#)
41. What limits does the County place, if any, on use of the services in this RFP –maximum number of onsite visits allowed per week (or other interval), remote visits per week, calls per week, minutes per call/visit, etc? [Currently no on-site visits, no limits to number of phone calls or video visits. One free 15-minute visit per week for all detainees.](#)
42. Do you have a preference for video visitation to be provided by tablets or by kiosks? [Kiosk and/or Tablets with blurred background.](#)

43. If visitation phones are required, how many visitation phone sets does the County have currently? Are they wired to the inmate telephone system for recording and monitoring today? [See question #13. All calls are recorded and monitored.](#)
44. Please provide the quantities of equipment currently installed (as applicable):
- Inmate telephones [See question #13](#)
 - TDD/TTY devices [One](#)
 - VRS devices
 - Visitation phones (connected to the inmate phone system)
 - Cart phones [None](#)
 - Hands-free inmate phones [None](#)
 - Portable cordless phones [None](#)
 - Enclosures / pedestals (specify type) [Two phone trees containing three phones per unit. \(Phone trees are facility property and are on site\)](#)
 - Workstations
 - Wireless inmate tablets [Under current contract the facility has 120 tablets](#)
 - Wireless access points [UNK](#)
 - Cell phone detection devices [None](#)
 - Video visitation kiosks – inmate [25](#)
 - Video visitation kiosks – visitor [Five](#)
 - Lobby kiosk [Same as n.](#)
 - Other kiosks (specify type) [Three wired mobile units](#)
 - Other equipment (specify type) [UNK](#)
45. Specify the quantities of equipment required in this contract, if different than quantities currently installed. [80 phones, currently there are 120 tablets on site this number would need to increase to adequate cover the facility.](#)
46. Is the County interested in any additional equipment that is not required? If so, specify the type(s) and desired quantities? [Only what is out lined at this time.](#)
47. For the current video visitation system:
- How many inmate kiosks are installed? [Same as question # 44](#)
 - How many visitor kiosks are installed? [Same as question #44](#)
 - Do you have any portable kiosks? [Same ae question # 44](#)
 - Do you require the same equipment counts as those described above? If not, please explain. [Yes](#)
 - What kind of wiring connects the kiosks to the equipment room? [CAT 6 wire](#)
48. Do you currently have an inmate tablets program? If so:
- How many tablets does the County have today? [120](#)
 - Who is the tablet manufacturer? [UNK](#)
 - Do inmates share the tablets? How do they check them out? [Yes, During free time from the unit officer](#)
 - Exactly what services and applications are offered on the tablets? [Phone, music, movies](#)
 - Are the tablets interfaced with the JMS and for what purpose? [No](#)
 - Please provide all the rates and fees associated with the tablets. [See question # 7](#)
 - Please provide tablet usage reports for the past several months. [See question # 7](#)

49. Please provide the historical or estimated/projected call volumes that will be used in the evaluation of calling rates. [See question # 7](#)
50. Some vendors provide alternate payment options, such as the ability to purchase a one-time phone call using a credit or debit card, without the necessity of setting up a prepaid account, and typically pay little to no commission on these calls. Will the County please confirm that vendors are required to pay the same commission amount for all calls, including premium, prepaid, debit and collect? [Yes, same commission.](#)
51. After the first round of questions is answered, will the County accept additional questions if clarification is needed for any of the County's responses? [After the submission of proposals, the County may contact vendors for clarification.](#)
52. Would the County please provide a breakdown by housing unit of the inmate capacity and the number of phones kiosks, tablets and charging stations in each? The inmate capacity for each cell block is necessary for determining network requirements. [Six housing units on the North tower housing 46 detainees in each. Three housing units on the Central housing unit housing 56 detainees in each, two housing units housing 40 detainees in each. Annex \(currently closed\) two housing units housing 40 detainees in each.](#)
53. Many inmate telephone system providers offer multiple inmate communications technologies and services such as electronic messaging, video visitation, digital mail scanning, inmate tablets and kiosks. May vendors present propose a comprehensive inmate communications system package that includes Detention Phone Service as well as these inmate communication technologies and services or should vendors limit their proposal offering specifically to Detention Phone Service? [No electronic messaging and digital mail. The facility is under contract for these services.](#)
54. To help ensure a level playing field for all bidders, please confirm that the successful vendor must provide new equipment. Also, please verify that this applies to both new potential bidders and the incumbent provider. [New vendors would have to supply new equipment, current equipment is owned by the current provider.](#)
55. Some vendors provide alternate payment options, such as the ability to purchase a one-time phone call using a credit or debit card, without the necessity of setting up a prepaid account, and typically pay little to no commission on these calls. Will the County please confirm that if such alternate payment options are offered, that vendors are required to pay the same commission amount for all calls, including premium, prepaid, debit and collect? [Vendors are required to pay the same commission for all calls.](#)
56. Who is the County's incumbent Inmate Trust Fund/Banking provider? [Well Fargo](#)
57. Will County allow vendors to submit multiple cost proposals/financial offers? [Yes](#)
58. Will this RFP be for only inmate telephone services or would the County be willing to consider a complete inmate communication system to include video visitation, tablets, and emessaging? [Contract considerations will be video visitation, tablets, and phone system.](#)
59. Please provide past 6 months of usage & revenue information on additional services such as email, video visitation, etc. [See question # 7](#)
60. Can the county provide the current ITS call rates, video visitation rates, email rates, etc.? [See question #7 and question # 10](#)
61. Please provide information on any signing bonus, tech fund commission, or any other upfront revenue the county has received over the contract period and extensions. [None.](#)

Attached: Master Service Agreements and Amendment (38 pages)

END OF ADDENDUM #2

RFP DETENTION CENTER PHONE SERVICE

Master License and Services Agreement

This Master License and Services Agreement (the “**Agreement**”), made and entered into as of this 30 day of April 2020 (the “**Effective Date**”), by and between Buncombe County (NC) Sheriff’s Office (the “**County**”) and HomeWAV, LLC, a Delaware limited liability company (“**HomeWAV**”). Each of the County and HomeWAV may be referred to herein as a “Party” and collectively, the “**Parties.**”

RECITALS

Whereas, HomeWAV is a provider of a unique, custom all-in-one inmate communications solution comprised of patented technology, video software, hosted services, and equipment that has been adapted for use in secured detention facilities as more particularly described herein (collectively, the “**System**”); and

Whereas, the County desires that HomeWAV provide the System to one or more of its secured detention facilities (each a “**Facility**” and collectively, the “**Facilities**”), and HomeWAV desires to provide the System identified herein to the County pursuant to the terms and conditions set forth herein.

Now, therefore, in consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the Parties agree as follows:

1. **Definitions.**
 - a. “**Equipment**” means the specific HomePAS™ Kiosks, PoE Adaptor Sets, routers, switches and other such hardware and equipment as set forth on Exhibit A which is provided to the County as part of the System licensed to it under this Agreement.
 - b. “**Licensed Services**” means that portion of the System comprised of the Software and cloud-based applications that are run on a hosted system and which are provided by

HomeWAV to the County pursuant to the license terms herein to enable inmate video calls and messaging services at each Facility.

- c. **“Professional Services”** means the installation, setup, configuration, and testing of the Equipment and the System, and training provided by HomeWAV to the County as more particularly described herein.
- d. **“Software”** means the proprietary and patented software program owned by HomeWAV and licensed to the County pursuant to the terms of this Agreement.

2. **Exclusivity.** The County acknowledges and agrees that this is an exclusive services agreement between the Parties; and accordingly the County agrees that for as long as this Agreement remains in full force and effect HomeWAV will be its sole and exclusive provider of inmate video calls and messaging services (not to include email) for all of its Facilities. For purposes of clarity, this exclusive arrangement means, and the County agrees that the County is expressly prohibited from engaging using, licensing, purchasing, or accepting from any third party, employee, contractor, or related entity any software, equipment or services that are similar to some or any part of the System (including the Licensed Services) or the Professional Services for use at any of its Facilities.

3. **Term of this Agreement.** This Agreement is effective as of the Effective Date and continues in full force and effect until expiration of a Term or earlier termination. The System will be made fully available to the County for its use and the County’s license to the System pursuant to Section 7 will commence ninety (90) days after the Effective Date (the **“Commencement Date”**) and HomeWAV will provide the System and related Professional Services and Licensed Services to the County through December 31, 2022 (the **“Initial Term”**) unless earlier terminated pursuant to Section 14. This Agreement will automatically renew for additional

one (1) year periods (each a “**Renewal Term**”) unless either Party notifies the other Party of its desire not to renew this Agreement at least 90 days prior to the commencement of the next Renewal Term. The Initial Term and each Renewal Term are collectively, the “**Term.**”

4. **Professional Services (No Charge).** HomeWAV will provide the following Professional Services to the County at no charge during the Term:

- arrange for the delivery of the Equipment to the County’s Facilities included under this Agreement,
- load the Software onto the Equipment,
- coordinate the installation of the Equipment in designated wall mount locations within the Facilities,
- provide system testing and acceptance on all kiosks,
- provide staff and inmate training on platform features and functionality,
- arrange for high speed Internet service at minimum of 0.5MB up/0.5MB down per kiosk, and any equipment associated therewith to service the System, and
- arrange for cat 5e or greater cable to be installed (if necessary) to each location within the Facility where Equipment is to be installed.

5. **Support and Maintenance (No Charge).** For the entire Term of this Agreement, and at no charge to the County, HomeWAV will support and maintain the Equipment located at each Facility pursuant to HomeWAV’s Software and Hardware Service Level Agreement attached hereto as Exhibit C (the “**Service Agreement**”). Under no circumstances may the County or any

third party acting on behalf of the County install, uninstall, or perform any maintenance or related services on the Equipment, it being understood and agreed that only an approved HomeWAV technician may provide Professional Services, support and maintenance on the Equipment.

6. **Ownership of Equipment and Software.** HomeWAV is the sole and exclusive owner of the Software and Equipment and retains all right, title and interest in and to the Software and Equipment at all times during the Term. The Software and Equipment are provided to the County pursuant to the System license granted in Section 7 below. HomeWAV will purchase and maintain insurance coverage for the Equipment and the Software comprising the System. HomeWAV will deliver the Equipment to the County's designated Facilities pursuant to a mutually agreed schedule and will install and configure the Equipment with the Software pursuant to the Professional Services set forth above.

7. **License to System.** HomeWAV hereby grants to the County a limited, non-assignable, non-sublicenseable, revocable, and nonexclusive license during the Term to use the Software, Equipment, and related components comprising the System solely for the limited purposes of providing Internet video calls to inmates in each Facility and viewing or monitoring the records of such calls. In addition, if the County exercises its right to receive "**Add On Features**" as set forth in Exhibit B attached hereto, HomeWAV will provide the County with reasonable assistance to enable the County to receive and use such Add On Features with the System and will seek authorization from any third party providers if necessary. The County, to the best of its abilities, will not, and will not permit any other person to, remove, alter, disfigure or cover up any numbering, lettering, insignia or any owner's tag(s) displayed upon the Equipment, and the County may not move the Equipment from the Facility or the location in the

Facility where it is installed by HomeWAV. Any of the foregoing actions are deemed a material breach of this Agreement. The County's license to and use of the Software is governed by the terms of this Agreement, the Software End User License Agreement provided with the Software (a copy of which is located at <https://app.homewav.com/account/terms>), and the Website Terms of Use and Privacy Policy located at https://www.homewav.com/privacy_policy/, as such items may be updated, amended and modified in accordance with their respective terms (collectively, the "**Software Terms and Conditions**"). Any conflict between this Agreement and the Software End User License Agreement, the terms of this Agreement shall prevail. The County may not copy or modify the Software, or any adaptation, transcription or merged portion thereof, unless expressly authorized in writing by HomeWAV.

8. **The County's Covenants and Obligations.** The County hereby covenants and agrees to the following terms as material conditions to its right to use the System:
- a. It will not sell, sublicense, or assign the Equipment, the Software, or any other components of the System.
 - b. It will keep the Equipment free and clear of all liens and encumbrances.
 - c. It will only use the Equipment, Software, and other components of the System for (i) the limited purposes provided under the license in Section 7 and (ii) if requested by and, as applicable, purchased by the County, any Add On Features in all cases pursuant to the terms and conditions of this Agreement and the Software Terms and Conditions.
 - d. It will use the System solely at the Facilities and locations within the Facilities where installed by HomeWAV

- e. It will use its best efforts to ensure that none of the Equipment or Software is damaged by misuse or neglect, including, without limitation, by misuse by the inmates.
 - f. It will work with HomeWAV to ensure that all individuals to whom it grants access to and use the System will agree to the Software Terms and Conditions.
 - g. It acknowledges and agrees that HomeWAV will be the sole and exclusive provider of inmate video call and messaging (not to include email) services to all of the County's Facilities.
 - h. It will not move the Equipment without the advance written consent of HomeWAV.
 - i. It will not intentionally remove, alter, disfigure, or cover up any numbering, lettering, insignia, or any owner's tag(s) displayed upon the Equipment. County is not responsible for damage caused by third parties who are not agents or assigns of the County.
 - j. It will provide a data file from the Jail Management Software, via secure FTP or web services integration, at a minimum of every fifteen (15) minutes. Any initial synchronization cost will be paid by HomeWAV.
9. **Access to the Facility.** The County will grant HomeWAV and its employees and subcontractors reasonable and necessary access to the Facilities in order to enable HomeWAV to perform its obligations and exercise its rights hereunder. HomeWAV shall have the right, upon reasonable notice, to enter into each Facility to inspect the System.
10. **System Usage Fee.** The Facility's inmates shall be charged the following fees for using the System, or such other prices as may be agreed to by the County and HomeWAV (such amounts,

the “Usage Fees”). Usage Fee shall be defined as the cost per minute for video calls and the cost per message for messaging.

System Usage Fees	
Onsite Video Calls	Free
Remote (Offsite) Video Calls	\$0.20 per minute
Video Message	\$0.50 per message

Revenues from using the System shall be deposited into a dedicated account established and maintained by HomeWAV and HomeWAV is authorized to disburse such funds in accordance with Section 11. HomeWAV reserves the right to change the Usage Fees, upon 30 days’ written notice to the County if such changes arising from any one or combination of the following: (a) inflation as established by the Federal Department of Labor on December 31, of each year, (b) a change in taxes, or any (c) rule, regulation, or other action by any government or regulatory entity resulting in increased costs to HomeWAV. If the County does not agree to the change, the County has the right to terminate this Agreement.

11. **Revenue Sharing.** HomeWAV shall pay to the County **15% of Adjusted Gross Revenue (“AGR”)** from the usage of the System installed in the Facility. The revenue share will be reduced by 5% after the deployment of the tablets. AGR shall be defined as Gross Revenue of the Usage Fees less internet fees, Federal, State, Local taxes, and recovery charges. For information on recovery charges and how they are applied, please refer to <https://www.homewav.com/understandingtaxes/>. HomeWAV shall pay to the County, on a monthly basis, its share of the revenues not later than the 10th day of following month.

12. **Call Recording.** The County hereby agrees that HomeWAV shall have no obligation to verify the users of the System. HomeWAV will endeavor to make certain recordings available to the County on demand for a period of not less than 180 days after the date of such recording and, with advanced written notice, for a

period of one year from the date this Agreement expires or is terminated. Archived data retrieval shall be \$150 per request, plus \$5 per video. Upon written request, HomeWAV will transfer a digital copy of the recording to the Sheriff.

13. **Financial Reporting Requirements.** HomeWAV shall maintain an accounting program that accurately reflects the revenues generated by the System in the Facilities and provide that information to the County monthly during the term of this Agreement. HomeWAV shall retain its share of the revenues as payment for its obligations hereunder, and shall remit the County's share of revenues, along with such monthly financial reports, to the County. HomeWAV shall issue call data, revenue, and expense information by the 10th day of each month with respect to call activity that occurred in the Facilities during the preceding month. HomeWAV shall maintain all books, documents, accounting records and other evidence pertaining to the services and payments under this Agreement and make such materials available for inspection at all reasonable times during the term of this Agreement, and for three (3) years after the date of the final payment under the Agreement.

14. **Termination.**

- a. **Termination for Cause.** Either party may terminate this agreement, if either breach any of its obligations under the agreement and remains uncured for thirty (30) days, by giving the other party sixty (60) days advance written notice.
- b. **Termination for Convenience.** Either party may terminate this agreement twelve (12) months after the Effective Date, by giving the other party sixty (60) days advanced written notice. In the event the County Terminates for Convenience, HomeWAV shall retain 100% of the revenue generated by the System from the notice date until system removal.

c. **Effects of and Actions upon Termination or Expiration.** Upon termination or expiration of this Agreement, irrespective of the cause, the licenses granted by HomeWAV to the County shall terminate. The County shall take the following actions: (i) immediately cease and cause all of its users to immediately cease all access to and use of the System; (ii) make the equipment in question, in good working condition, available for pickup by HomeWAV; and (iii) to the extent any Software is then being run on any of its systems, remove all Software applications. HomeWAV has thirty (30) days from the date of termination to collect its equipment. If HomeWAV does not pick up its equipment within thirty (30) days, the property is considered abandoned and becomes the property of the Sheriff. In the event that any returned Equipment is not in good, working condition or any Equipment and the County was responsible for the damage, or is not returned pursuant to this Section, the County will be liable for the current fair market value of such Equipment, and will remit payment in full upon demand by HomeWAV.

d. **Survival.** Sections 10, 12, 14-17, 20-22, 24, 25-27, and 29-30 shall survive termination of this Agreement.

15. **Agreement Documents.** The attached Exhibit A, describing the Equipment and attached Exhibit B describing the Add On Features, Exhibit C setting forth the terms of the Service Agreement, and the Software Terms and Conditions are each made part of this Agreement and are each incorporated herein by this reference. This Agreement represents the entire agreement and understanding between HomeWAV and the County with respect to the subject matter hereof, and supersedes any other agreement or understanding, written or oral, that the Parties hereto may have had with respect thereto. No statements, representations, promises or inducements with respect to the

subject matter by either Party or by any agent or representative of either Party which is not contained in this Agreement shall be valid or binding between the Parties.

16. **Force Majeure.** To the extent allowable by law, any delays or failures by either Party hereto in the performance of the obligations hereunder shall be excused if and to the extent such delays or failures are caused by occurrences beyond such Party's control (a "**Force Majeure**"), including, without limitation, acts of God, strikes or other labor disturbances, war, whether declared or not, sabotage, failure of the Internet, or any part or element thereof and/or any other cause or causes, whether similar or dissimilar to those herein specified, which cannot reasonably be controlled by such Party.

17. **Governing Law.** This Agreement shall be governed by the laws of the State of North Carolina, both as to interpretation and performance.

18. **Independent Contractor.** Each party acknowledges and agrees that HomeWAV and its employees (and any subcontractors it engages) serve as independent contractors and that the County shall not be in any manner responsible for any payment, insurance, or incurred liability. Nothing in this Agreement will create an employer-employee relationship, association, joint venture, partnership, or other form of legal entity or business enterprise between the Parties, their agents, employees or affiliates.

19. **Subcontractors.** HomeWAV shall have the right, in its sole and absolute discretion, to use subcontractors to perform its obligations and exercise its rights hereunder. HomeWAV shall be responsible for all acts and omissions of its subcontractors as if such acts or omissions were performed by HomeWAV.

20. **Notices.** All notices under this Agreement must be in writing and given to the other Party at the address or email below.

Delivery is deemed to occur: (a) on the third (3rd) business day after bring mailed first class, prepaid, (b) upon delivery from a nationally recognized overnight courier service, (c) upon delivery if hand delivered, and (d) upon receipt of an automated verification of receipt if sent by email. Either Party may change its address and/or addressee for notices at any time with fifteen (15) days' prior notice to the other Party in accordance with the foregoing.

HomeWAV: HomeWAV, LLC
2020 Westport Center Dr.
St. Louis, MO 63146
j.best@homewav.com

County: Buncombe County (NC) Sheriff's Office
20 Davidson Dr.
Asheville, NC 28801

21. **Nondiscrimination and Non-Conflict Statements.**

HomeWAV agrees that no person on the grounds of handicap, age, race, color, religion, sex or national origin, shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement, or in the employment practices of HomeWAV. HomeWAV shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination.

22. **Warranties and Disclaimers.**

- a. **Services Warranty.** HomeWAV warrants that it will perform the Professional Services, support and maintenance in a good and workmanlike manner using trained professionals, and that it will use commercially reasonable efforts to meet the performance terms in the Service Agreement.

b. Disclaimers. EXCEPT AS PROVIDED HEREIN, THE SYSTEM AND ALL RELATED SERVICES IN THIS AGREEMENT ARE DELIVERED AND PROVIDED “AS IS” AND WITHOUT WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

23. **Compliance with all Federal, State, and Municipal Laws.**

HomeWAV will comply with all applicable federal, state, and local laws, statutes, ordinances, and regulations in any manner affecting the provision of inmate communication, and shall ensure that its third party subcontractors, if any, obtain any necessary permits prior to installation of the Equipment in the Facilities.

24. **Assignment.** Neither Party may assign this Agreement or any or all of its rights or obligations hereunder without the prior written consent of the other Party; provided, however, that HomeWAV may assign this Agreement to any of its subsidiaries or affiliates or to any entity that acquires all or substantially all of HomeWAV’s assets and agrees to assume responsibility hereunder. None of the provisions of this Agreement shall be construed to be for the benefit of or enforceable by any person or entity other than the Parties hereto and their successors and assigns.

25. **Severability.** If any provision of this Agreement is declared illegal, void, or unenforceable the remaining provisions shall not be affected but shall remain in force and in effect.

26. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original hereof and all of which, when taken together, will be deemed to constitute one and the same agreement. Signatures transmitted by facsimile or other electronic means will be deemed originals.

27. **Authorization; Third Party Beneficiaries.** Each person signing below warrants and represents that he/she has full power and authority to execute this Agreement on behalf of the Party he/she represents. There are no third-party beneficiaries to this Agreement.

28. **§ E-Verify.** HomeWAV shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. HomeWAV shall also require any and all of its subcontractors to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

29. **Insurance.** HomeWAV will provide Workers' Compensation Insurance for its employees. HomeWAV shall also have a commercial general liability insurance policy with a minimum amount of \$1,000,000.00 and name Buncombe County as an additional insured. A copy of said coverages shall be provided to the County's Risk Management Office upon request.

30. **Indemnification.** HomeWAV shall indemnify, defend and hold harmless Buncombe County and the Buncombe County Sheriff's Office and its subsidiaries, divisions, officers, directors and employees from all liability, loss, costs, claims, damages, expenses, attorney fees, judgments and awards arising or claimed to have arisen, out of injury caused by, or allegedly caused by, either in whole or in part, an act or costs, claims, damages, expenses, attorney fees, judgments and awards arising or claimed to have arisen, out of injury caused by, or allegedly caused by, either in whole or in part, an act or omission of any employee of HomeWAV. HomeWAV shall indemnify the County and/or the Sheriff in all instances except where the County and/or the Sheriff causes injury to a HomeWAV employee by some negligent act or omission.

31. **Immunity.** Nothing herein shall be construed as a waiver on the part of the County to any defense of any claim, including, but not limited to the defense of governmental immunity.

(signature page follows)

In witness whereof, the Parties hereto have caused this Agreement to be executed on the day and year first above written, to be effective as of the Effective Date.

HomeWAV, LLC

By: John Best
Name: John Best
Title: CEO/President

Buncombe County (NC) Sheriff's
Office

By: Quentin Miller
Name: QUENTIN MILLER
Title: Sheriff

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT A

The Equipment

- Thirty-eight (38) HomePAS[™] Kiosks
- One-hundred and twenty (120) ComPAS[™] Tablets: Expected delivery is expected in the fourth quarter of 2020 (capable of all kiosk functionality, in addition to education and entertainment)
- One (1) Router/firewall
- Two (2) 24-port PoE Switches

EXHIBIT B

Add On Features

HomeWAV will provide to the County the add-on services selected below.

Add-Ons	Description of Features/Benefits	Select
Law Library Integration	Integrate w/current or future provider through the all-in-one HomePAS™ kiosk.	<input type="checkbox"/>
ProForms™ and ProDocs™	Digital inmate medical grievance requests, custom/misc. inmate grievance requests, read-only documents, rules, handbook with digital inmate/visitor signature/acknowledgement, etc. through the all-in-one HomePAS™ kiosk.	<input checked="" type="checkbox"/>
Commissary Ordering Integration	Integrate w/current or future provider through the all-in-one HomePAS™ kiosk.	<input type="checkbox"/>
CourtPAS™	Remote video court/arraignment through the all-in-one HomePAS™ kiosk.	<input type="checkbox"/>
GoLegal™	Professional remote attorney visits through the all-in-one HomePAS™ kiosk.	<input type="checkbox"/>
Lobby Call Feature	Feature available onsite, through the all-in-one HomePAS™ kiosk, for visitors to call for HomeWAV contact center assistance.	<input type="checkbox"/>
Premium Add-Ons	Description of Features/Benefits	Select
Background Filtering	Configurable technology for custom backgrounds such as logos, SmartBlur, a solid color, or any other desired image. The appropriate lighting is important for video calls to work properly.	<input type="checkbox"/>
Argus Investigative Platform	Full biometric identification system/investigative suite for administrative users for video calls.	<input checked="" type="checkbox"/>
Earth Class Mail Scanning	Full mail scanning services to allow for physical mail sent to inmates to be routed to a secure processing facility for scanning into digitized mail. All mail is logged, organized, and stored securely by a certified technician. The mail is converted to a PDF with full text search capability.	<input type="checkbox"/>

Exhibit C

HomeWAV's Software and Hardware Service Level Agreement

Support and Maintenance

- Support and maintenance will be provided by phone support, remote access or testing, and on-site support. Phone support is available (24) hours a day, (7) days a week, and (365) days a year. Remote access or testing and on-site support are available between 8:00 a.m. and 6:00 p.m. on business days. To the extent that any service window described herein is not practicable given the security protocols at the applicable facility, the parties will work together to address the problem in a timely manner.
- Maintenance/repair calls from the facility will be resolved in the manner outlined in this section (subject to the limitations set forth above):
 - “Major Emergency” shall be defined as an occurrence of any one of the following conditions:
 - A failure of the system processor, its common equipment or power supplies which render the system incapable of performing its normal functions;
 - A failure of the recording function or any of its components that affect the full recording operation;
 - A failure of any of the kiosks functions that result in the ability of inmates to place visitation sessions without the use of assigned PINs; or
 - A failure of the system “kill switches” or similar disabling function.

For a “Major Emergency”, HomeWAV will attempt to respond to the service problem within thirty (30) minutes of the initial trouble report by the facility through the use of remote testing or access. If the system is not accessible for remote access, HomeWAV will have a qualified technician on-site at

the facility within two (2) hours from the time of initial trouble report.

- “Routine Service” shall be defined as a system failure or problem other than a “Major Emergency” item as listed above.

For a “Routine Service” HomeWAV will attempt to respond to the service problem within four (4) hours of the initial trouble report using remote testing or access or, if the Routine Service is an issue/defect, the issue/defect will be resolved using the Service Ticket Process described below. If needed, HomeWAV will send a qualified technician on site at the facility.

Service Ticket Process

- For issues or defects such as common “bugs” or similar problems, a service ticket is created for the issue/defect and sent to HomeWAV’s product development team.
- HomeWAV’s product development team will take the issue/defect and have it documented for analysis.
- Once analyzed, a scale is used to prioritize the service ticket and a number is placed on the issue/defect. A combination of importance, cost effectiveness, and resolution time will determine the number.
- This service ticket is then placed on the revolving “to do” list for our programmers who deploy the fixes, based on priority.

Request for Product Enhancement (Upgrade) Process

- The staff fills out a work order request for an upgrade.
- The work order request is analyzed by the product development team to determine whether it is a necessary universal upgrade to the system or specific to the County.
- If it is determined to be a necessary universal upgrade, it will be sent through the service ticket process and developed at no charge to the County. If it is determined to be specific to the County, a quote will be presented to the county for approval.

- If the work order request is approved by the County, the work order request will be sent to the service ticket process.
- HomeWAV retains the right to invoice any amounts due to the County that were incurred in connection with upgrades requested by the County.

HomeWAV reserves the right to amend this Agreement at any time upon reasonable advance notice to the County.

Master License and Services Agreement

This Master License and Services Agreement (the "**Agreement**"), made and entered into as of this 30th day of March 2021, by and between Buncombe County (NC) (the "**County**") and HomeWAV, LLC, a Delaware limited liability company ("**HomeWAV**"). Each of the County and HomeWAV may be referred to herein as a "**Party**" and collectively, the "**Parties**."

RECITALS

Whereas, HomeWAV is a provider of a unique, custom all-in-one inmate communications solution comprised of patented technology, software applications, hosted services, and equipment that has been adapted for use in secured detention facilities as more particularly described herein (collectively, the "**System**"); and

Whereas, the County desires that HomeWAV provide the System to one or more of its secured detention facilities (each a "**Facility**" and collectively, the "**Facilities**"), and HomeWAV desires to provide the System identified herein to the County pursuant to the terms and conditions set forth herein.

Now, therefore, in consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the Parties agree as follows:

1. **Definitions.**

- a. "**Equipment**" means the specific HomePAS™ Kiosks, PoE Adaptor Sets, routers, switches and other such hardware and equipment as set forth on Exhibit A which is provided to the County as part of the System licensed to it under this Agreement.
- b. "**Licensed Services**" means that portion of the System comprised of the Software and cloud-based applications that are run on a hosted system and which are provided by HomeWAV to the County pursuant to the license terms herein to enable inmate voice calls at each Facility.
- c. "**Professional Services**" means the installation, setup, configuration, and testing of the Equipment and the System, and training provided by HomeWAV to the County as more particularly described herein.
- d. "**Software**" means the proprietary and patented software program owned by HomeWAV and licensed to the County pursuant to the terms of this Agreement.

2. **Exclusivity.** The County acknowledges and agrees that this is an exclusive services agreement between the Parties; and accordingly, the County agrees that for as long as this Agreement remains in full force and effect HomeWAV will be its sole and exclusive provider of inmate voice calls for all of its Facilities. For purposes of clarity, this exclusive arrangement means, and the County agrees that the County is expressly prohibited from engaging using, licensing, purchasing, or accepting from any third party, employee, contractor, or related entity any software, equipment or services that are similar to some or any part of the System (including the Licensed Services) or the Professional Services for use at any of its Facilities.

3. **Term of this Agreement.** This Agreement is to be effective as of June 1st, 2021 ("**Effective Date**") and continues in full force and effect until expiration of a Term or earlier termination. The System will be made fully available to the County for its use and the County's license to the System pursuant to Section 7 will commence on the Effective Date and HomeWAV will provide the System and related Professional Services and Licensed Services to the County for a period of four (4) years from the Effective Date (the "**Initial Term**") unless earlier terminated pursuant to Section 15. This Agreement will automatically renew for additional one (1) year periods (each a "**Renewal Term**") unless either Party notifies the other Party of its desire not to renew this Agreement at least thirty (30) days prior to the commencement of the next Renewal Term. The Initial Term and each Renewal Term are collectively, the "**Term**."

4. **Professional Services (No Charge).** HomeWAV will provide the following Professional Services to the County at no charge during the Term:

- arrange for the delivery of the Equipment to the County's Facilities included under this Agreement,
- load the Software onto the Equipment,
- coordinate the installation of the Equipment in designated wall mount locations within the Facilities,
- provide system testing and acceptance on all Equipment,
- provide staff and inmate training on platform features and functionality,
- arrange for high-speed Internet service at minimum of 0.5MB up/0.5MB down per kiosk, and any equipment associated therewith to service the System, and
- arrange for cat 5e or greater cable to be installed (if necessary) to each location within the Facility where Equipment is to be installed.

5. **Support and Maintenance (No Charge).** For the entire Term of this Agreement, and at no charge to the County, HomeWAV will support and maintain the Equipment located at each Facility pursuant to HomeWAV's Software and Hardware Service Level Agreement attached hereto as Exhibit C (the "**Service Agreement**"). Under no circumstances may the County or any third party acting on behalf of the County install, uninstall, or perform any maintenance or related services on the Equipment, it being understood and agreed that only an approved HomeWAV technician may provide Professional Services, support, and maintenance on the Equipment.

6. **Ownership of Equipment and Software.** HomeWAV is the sole and exclusive owner of the Software and Equipment and retains all right, title and interest in and to the Software and Equipment at all times during the Term. The Software and Equipment are provided to the County pursuant to the System license granted in Section 7 below. HomeWAV will purchase and maintain insurance coverage for the Equipment and the Software comprising the System. HomeWAV will deliver the Equipment to the County's designated Facilities pursuant to a mutually agreed schedule and will install and configure the Equipment with the Software pursuant to the Professional Services set forth above.

7. **Limitation of Liability.** In no event with either party be liable to the other or any third party for any special, indirect, consequential or contingent damages, including, without limitation, loss of profits. The non-liability for damages applies whether in an action based on contract, tort or any other such theory, even if either party had been advised of the possibility of such damages. In no event shall either party's total liability exceed the greater of (a) the fees paid to HomeWAV for the party's access in the prior 12 month period or (b) U.S. \$5.00. The limitations set forth in this section shall apply even if the remedies under this agreement fail of their essential purpose.

8. **The County's Covenants and Obligations.** The County hereby covenants and agrees to the following terms as material conditions to its right to use the System:

- a. It will not sell, sublicense, or assign the Equipment, the Software, or any other components of the System.
- b. It will keep the Equipment free and clear of all liens and encumbrances.

- c. It will only use the Equipment, Software, and other components of the System for (i) the limited purposes provided under the license in Section 7 and (ii) if requested by and, as applicable, purchased by the County, any Add-On Features in all cases pursuant to the terms and conditions of this Agreement and the Software Terms and Conditions.
- d. It will use the System solely at the Facilities and locations within the Facilities where installed by HomeWAV.
- e. It will use its best efforts to ensure that none of the Equipment or Software is damaged by misuse or neglect, including, without limitation, by misuse by the inmates.
- f. It will work with HomeWAV to ensure that all individuals to whom it grants access to and use the System will agree to the Software Terms and Conditions, and further acknowledges and agrees that it will be fully liable to HomeWAV for breach by any such individuals of the Software Terms and Conditions.
- g. It acknowledges and agrees that HomeWAV will be the sole and exclusive provider of inmate voice calls, and all related Professional Services to all of the County's Facilities.
- h. It will not move the Equipment without the advance written consent of HomeWAV.
- i. It will not remove, alter, disfigure, or cover up any numbering, lettering, insignia, or any owner's tag(s) displayed upon the Equipment.
- j. It will provide an inmate roster from the Jail Management Software, via secure FTP or web services integration, at a minimum of every fifteen (15) minutes.

9. **Access to the Facility.** The County will grant HomeWAV and its employees and subcontractors reasonable and necessary access to the Facilities in order to enable HomeWAV to perform its obligations and exercise its rights hereunder. HomeWAV shall have the right, upon reasonable notice, to enter into each Facility to inspect the System.

10. **Use of the System.** The County agrees that the System shall be available to inmates for voice calls for a minimum of twelve (12) hours per day, seven (7) days per week.

11. **Revenue Sharing.** HomeWAV shall pay to the County a **monthly percentage of the Gross Billable Revenue ("GBR") based on the Average Daily Population ("ADP") of the previous month, as outlined below**, from the usage of the System installed in the Facility. GBR shall be defined as Gross Revenue of the Usage Fees less internet fees, international calling fees, Federal, State, Local taxes, and Cost Recovery Fee. For information on the Cost Recovery Fee and how they are applied, please refer to <https://www.homewav.com/understandingtaxes/>. HomeWAV shall pay to the County, on a monthly basis, its share of the revenues not later than the 10th day of following month.

Previous Month's ADP	Monthly Rate	County Commission
425 or less	\$0.15 per minute	50%
426-519	\$0.12 per minute	35%
520 or more	\$0.10 per minute	25%

12. **Call Recording.** The County hereby agrees that HomeWAV shall have no obligation to verify the users of the System and that the County is strictly liable to HomeWAV for any use of the Software by any of its users that violates the Software Terms and Conditions. HomeWAV will endeavor to make certain recordings available to the County on demand for a period of not less than 365 days after the date of such recording and, with advanced written notice, for a period of one year from the date this Agreement expires or is terminated. The County agrees that HomeWAV has no liability to the County or any third party for any failure to record, store, transmit, relay, review, or monitor any call.

13. **Financial Reporting Requirements.** HomeWAV shall maintain an accounting program that accurately reflects the revenues generated by the System in the Facilities and provide that information to the County monthly during the term of this Agreement. HomeWAV shall retain its share of the revenues as payment for its obligations hereunder, and shall remit the County's share of revenues, along with such monthly financial reports, to the County. HomeWAV shall issue call data, revenue, and expense information by the 10th day of each month with respect to call activity that occurred in the Facilities during the preceding month. HomeWAV shall maintain all books, documents, accounting records and other evidence pertaining to the services and payments under this Agreement and make such materials available for inspection at all reasonable times during the term of this Agreement, and for three (3) years after the date of the final payment under the Agreement.

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- b. **Termination for Convenience.** Either party may terminate this agreement twelve (12) months after the Effective Date, by giving the other party sixty (60) days advanced written notice. In the event the County Terminates for Convenience, HomeWAV shall retain 100% of the revenue generated by the System from the notice date until system removal.
- c. **Effects of and Actions upon Termination or Expiration.** Upon termination or expiration of this Agreement, irrespective of the cause, the licenses granted by HomeWAV to the County shall terminate. The County shall take the following actions: (i) immediately cease and cause all of its users to immediately cease all access to and use of the System; (ii) and allow a HomeWAV authorized technician to remove the Equipment no later than (10) days following the termination or expiration date.
- d. **Survival.** Sections 11, 13, 15-18, 21-23, and 25-28 shall survive termination of this Agreement.

15. **Agreement Documents.** The attached Exhibit A, describing the Equipment and attached Exhibit B describing the Add-On Features, Exhibit C setting forth the terms of the Service Agreement, and the Software Terms and Conditions are each made part of this Agreement and are each incorporated herein by this reference. This Agreement represents the entire agreement and understanding between HomeWAV and the County with respect to the subject matter hereof, and supersedes any other agreement or understanding, written or oral, that the Parties hereto may have had with respect thereto. No statements, representations, promises or inducements with respect to the subject matter by either Party or by any agent or representative of either Party which is not contained in this Agreement shall be valid or binding between the Parties.

16. **Force Majeure.** To the extent allowable by law, any delays or failures by either Party hereto in the performance of the obligations hereunder shall be excused if and to the extent such delays or failures are caused by occurrences beyond such Party's control (a "Force Majeure"), including, without limitation, acts of God, strikes or other labor disturbances, war, whether declared or not, sabotage, failure of the Internet, or any part or element thereof and/or any other cause or causes, whether similar or dissimilar to those herein specified, which cannot reasonably be controlled by such Party.

17. **Governing Law.** This Agreement shall be governed by the laws of the State of North Carolina, both as to interpretation and performance.

18. **Independent Contractor.** Each party acknowledges and agrees that HomeWAV and its employees (and any subcontractors it engages) serve as independent contractors and that the County shall not be in any manner responsible for any payment, insurance, or incurred liability. Nothing in this Agreement will create an employer-employee relationship, association, joint venture, partnership, or other form of legal entity or business enterprise between the Parties, their agents, employees, or affiliates.

19. **Subcontractors.** HomeWAV shall have the right, in its sole and absolute discretion, to use subcontractors to perform its obligations and exercise its rights hereunder. HomeWAV shall be responsible for all acts and omissions of its subcontractors as if such acts or omissions were performed by HomeWAV.

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HomeWAV: HomeWAV, LLC
2020 Westport Center Dr.
St. Louis, MO 63146

County: Buncombe County (NC)
20 Davidson Dr.
Asheville, NC 28801

21. **Nondiscrimination and Non-Conflict Statements.** HomeWAV agrees that no person on the grounds of handicap, age, race, color, religion, sex, or national origin, shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement, or in the employment practices of HomeWAV. HomeWAV shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination.

22. **Warranties and Disclaimers.**

- a. **Services Warranty.** HomeWAV warrants that it will perform the Professional Services, support and maintenance in a good and workmanlike manner using trained professionals, and that it will use commercially reasonable efforts to meet the performance terms in the Service Agreement.

- b. **Disclaimers.** EXCEPT AS PROVIDED HEREIN, THE SYSTEM AND ALL RELATED SERVICES IN THIS AGREEMENT ARE DELIVERED AND PROVIDED "AS IS" AND WITHOUT WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

23. **Compliance with all Federal, State, and Municipal Laws.** HomeWAV will comply with all applicable federal, state, and local laws, statutes, ordinances, and regulations in any manner affecting the provision of inmate communication, and shall ensure that its third-party subcontractors, if any, obtain any necessary permits prior to installation of the Equipment in the Facilities.

24. **Assignment.** Neither Party may assign this Agreement or any or all of its rights or obligations hereunder without the prior written consent of the other Party; provided, however, that HomeWAV may assign this Agreement to any of its subsidiaries or affiliates or to any entity that acquires all or substantially all of HomeWAV's assets and agrees to assume responsibility hereunder. None of the provisions of this Agreement shall be construed to be for the benefit of or enforceable by any person or entity other than the Parties hereto and their successors and assigns.

25. **Severability.** If any provision of this Agreement is declared illegal, void, or unenforceable the remaining provisions shall not be affected but shall remain in force and in effect.

26. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original hereof and all of which, when taken together, will be deemed to constitute one and the same agreement. Signatures transmitted by facsimile or other electronic means will be deemed originals.

27. **Authorization; Third Party Beneficiaries.** Each person signing below warrants and represents that he/she has full power and authority to execute this Agreement on behalf of the Party he/she represents. There are no third-party beneficiaries to this Agreement.

(signature page follows)

In witness whereof, the Parties hereto have caused this Agreement to be executed on the day and year first above written, to be effective as of the Effective Date.

HomeWAV, LLC

By: John Best
Name: John Best
Title: CEO/President

Buncombe County (NC)

By: Quentin Miller
Name: QUENTIN MILLER
Title: Sheriff

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT A**The Equipment**

- Thirty-Nine (39) HomePAS™ Kiosks
- One (1) Router/firewall
- Two (2) 24-port PoE Switches

EXHIBIT B

Add-On Features (optional)

HomeWAV will provide to the County the add-on services selected below.

Premium Add-Ons	Description of Features/Benefits	Yes/No	Cost
Investigative Platform	Full biometric identification system/investigative suite for administrative users for voice calls.	Yes	\$0.01/min.
Call Transcription	Investigative platform with transcription services.	Yes	\$0.01/min.

Exhibit C

HomeWAV's Software and Hardware Service Level Agreement

Support and Maintenance

- Support and maintenance will be provided by phone, remote, and onsite. Phone support is available from 8:00 a.m. EST to 8:00 p.m. PST. Monday through Friday. After hours messages may be left for service (7) days a week, and three-hundred and sixty-five (365) days a year. These messages will be addressed the next business day beginning at 8:00 a.m. EST.
- Maintenance/repair calls from the facility will be resolved in the manner outlined in this section.

Priority 1 Outage: A P-1 failure is defined as:

- A failure of the kiosk processor, its common equipment, or power supplies which render the system incapable of performing its normal functions.
- A failure of the recording function or any of its components that affects the full recording operation.
- A failure of 100% of the kiosks in any one area within the facility.
- Holiday and weekend P-1 response will be handled on a case-by-case basis and is worked in conjunction with facility staff and our ability to gain access to the facility needing service.

Response to P-1 issues shall be available twenty-four (24) hours a day, seven (7) days a week, throughout the term of the contract.

HomeWAV shall respond to the service problem within sixty (60) minutes of initial trouble reported by facility personnel through the use of remote testing or access. Should the system not be accessible for remote testing, then HomeWAV shall have a qualified background-checked technician onsite at the facility within four (4) hours from the time it is determined that the problem cannot be resolved remotely.

If the issue can be worked on remotely, HomeWAV is committed to having completed the repair within 4 hours of the initial issue report. If it is determined that a technician must be on-site to correct the issue, then the technician will be onsite within 4 hours of the time it was determined that the problem could not be resolved remotely.

Priority 2 Outage: A P-2 failure is defined as:

- A Priority 2 condition exists when A failure of 50% of the kiosks in any one area within the facility occurs.

When a P-2 failure occurs, HomeWAV shall respond to the service problem within sixty (60) minutes of initial trouble reported by facility personnel through the use of remote testing or access. HomeWAV is committed to having completed repair within eight (8) hours of the initial issue report. Should the system not be accessible for remote testing, HomeWAV shall have a qualified background-checked technician onsite at the facility within sixteen (16) hours of the time it was determined that the problem could not be resolved remotely.

Priority 3 Outage: A P-3 failure is defined as:

- A Priority 3 is a normal ticket that does not fall into the P-1 or P-2 categories. These issues are handled as quickly as possible. When a P-3 failure occurs, HomeWAV shall respond to the service problem within two (2) hours of the initial trouble reported by facility personnel through the use of

remote testing or access. HomeWAV is committed to completing the repair within 48 to 72 hours of the initial issue report.

Service Ticket Process

- A service ticket is created for the issue/defect by submitting a request for support through the HomeWAV support portal in the HomeWAV web application.
- A service ticket will be generated with a ticket number, date, and time stamp.
- Our Tier 1 technical support team will triage the issue and determine the next course of action. Our Tier 1 support staff will manage the issue and provide a status report to stake holders periodically as the ticket progresses.
- Tier 1 will create a dispatch if necessary and coordinate with the facility point of contact for technician access.
- Tier 1 will manage the ticket from the beginning to the end and will follow a close-out process with the point-of-contact to ensure all issues have been handled as they relate to the service request.

Warranty

- **HomeWAV Software Warranty:** Includes support, maintenance, schedule upgrades, and scheduled updates.
 - **HomeWAV Hardware Warranty:** Includes parts and equipment, on-site maintenance for normal wear, defects in material and workmanship, and natural disaster.
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Exhibit D – Software License Agreement Changes

The Parties agree that Exhibit D will supersede HomeWAV's End User Licensing Agreement and Terms of Use, for the duration of the Agreement.

HOME WAV END USER LICENSING AGREEMENT AND TERMS OF USE

PLEASE READ THIS END USER LICENSE AGREEMENT (the “**Agreement**”) CAREFULLY BEFORE DENOTING YOUR ACCEPTANCE BY THE METHOD OFFERED. THE TERMS AND CONDITIONS OF USE, AND THIS AGREEMENT ARE BETWEEN YOU (referred to herein as “**YOU**“ “**YOUR**“ or “**LICENSEE**“) and Home Wav (“Home Wav”). THIS AGREEMENT AND LICENSE APPLIES TO THE SERVICES MADE AVAILABLE BY HOME WAV VIA WEBSITE, MOBILE APPLICATIONS, OR OTHER PLATFORMS AS MAY BE OFFERED (“**SERVICES**“ OR “**SOFTWARE**“.)

UPON DOWNLOADING THIS SOFTWARE APPLICATION, OR OTHERWISE ACCESSING THESE SERVICES, YOU WILL BE REQUIRED TO REVIEW AND ACCEPT THESE TERMS BEFORE MAKING FURTHER USE. YOU MAY BE REQUIRED TO CREATE A USER ACCOUNT, DURING THE PROCESS YOU MUST INDICATE YOUR ASSENT TO THIS AGREEMENT BY CLICKING “I AGREE.”

ONCE AN ACCOUNT HAS BEEN REGISTERED, USE OF THE SOFTWARE AND SERVICES, SHALL BE SUBJECT TO A MASTER LICENSING AGREEMENT BETWEEN HOME WAV, AND A NAMED CORRECTIONAL FACILITY (the “**Home Wav Master Agreement**“). THE HOME WAV MASTER AGREEMENTS ALLOW CONTRACTING ENTITY TO CREATE A FACILITY NETWORK, AND TO AUTHORIZE USER ACCOUNTS TO USE THEIR FACILITY NETWORK ACCORDING TO THE TERMS AND CONDITIONS, WHICH THEY SET FORTH (the “**Authorizing Facility**“).

USERS MAY USE THE SOFTWARE AND SERVICES TO ACCESS MULTIPLE FACILITIES. PERMISSIONS AND ACCESS TO FACILITY NETWORKS SHALL BE DETERMINED BY INDIVIDUAL FACILITIES.

SUBJECT TO THE HOME WAV MASTER AGREEMENT, AUTHORIZING FACILITIES SHALL PERMIT AND ASSIGN INMATE USER ACCOUNTS SUBJECT TO THEIR INSTITUTIONAL RULES AND LOCAL LAWS. NOTWITHSTANDING RULES SET FORTH BY THE AUTHORIZING FACILITY, INMATE USERS SHALL HAVE AN OPPORTUNITY TO REVIEW THESE LICENSING TERMS AND THEIR USE OF THESE SERVICES IS CONDITIONED ON THEIR AGREEMENT TO THE TERMS SET FORTH THEREIN.

THIS AGREEMENT GOVERNS YOUR USE OF THE HOME WAV SOFTWARE AND SERVICES. BY ACCEPTING THIS AGREEMENT YOU REPRESENT THAT YOU ARE CURRENTLY, OR ARE ELIGIBLE TO BECOME AN AUTHORIZED USER SUBJECT TO THE HOME WAV MASTER AGREEMENT. . IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT OR, IF YOU HAVE REASON TO KNOW YOU WILL NOT BE PERMITTED TO MAKE FURTHER USE BY AUTHORIZING FACILITY, OR YOU WILL BE UNABLE TO COMPLY WITH AUTHORIZING FACILITIES RULES REGARDING USE OF THEIR NETWORK, THEN DO NOT DOWNLOAD THE SOFTWARE OR OTHERWISE MAKE USE OF THESE SERVICES.

1. Definitions.

- a. “**Effective Date**“ means the day that you download the Home Wav Software.
- b. “**Modifications**“ means any work based on or incorporating all or any portion of the Home Wav Software, including, without limitation, modifications, updates, enhancements, customizations, supplements and any derivative works made to the Home Wav Software.
- c. “**Home Wav Software**“ means the Home Wav application that Home Wav makes available to you for download as part of the installation process.

2. License.

Subject to the terms and conditions of this Agreement, Home Wav grants to you a limited term, non-exclusive, non-transferable license to access and use the Home Wav Software solely for use in accordance with the Home Wav Agreements and this Agreement. Home Wav owns all right, title and interest in the Home Wav Software, including all copyrights, trademarks, patents and trade secrets. The terms and conditions of this Agreement apply to any Modifications, unless Home Wav provides you with additional or different terms along with the Modifications. You may not: (a) reproduce, display, download, modify, create derivative works of or distribute the Home Wav Software, in whole or in part, or make any Modifications (b) attempt to reverse engineer, decompile, disassemble or access the source code for the Home Wav Software or any component thereof; © permit any other party to access the Home Wav Software; (d) transmit the Home Wav Software, in whole or in part, electronically by any means; or (e) access the Home Wav Software via any means other than over the Internet using authorized login credentials. This Agreement does not grant you any right to use the Home Wav Software, or any part of the Home Wav Software other than as authorized in this Agreement and the Home Wav Agreements. You are responsible for safeguarding your login credentials and all use that occurs arising under any account created using Home Wav Software.

Home Wav charges a fee to use its Service. The fee is an access fee permitting you to take part in video visitation services via the Internet as authorized by the Authorizing Facility. The fee is earned, consistent with Home Wav's published rate schedule, when authorized communications occur.

3. Ownership and Support

You agree that Home Wav owns all rights, title and interests in the Home Wav Software Application and any and all Modifications thereto; including all intellectual property rights associated therewith or embodied therein and is protected by international intellectual property law on all proprietary works embodied herein.

Limited to Application issues, Home Wav shall offer support services pursuant to the Home Wav Agreements, Authorizing facility shall be responsible for communicating all questions and requests from end user to support services under this Agreement.

4. Third-Party Materials

The Home Wav Software and Services may include features and functionalities, data or other materials that are linked to these services. These are third party materials that are owned by individuals or legal entities other than Home Wav and that are provided to you on terms separate from those contained in this Agreement. You are responsible for your interactions, and agreements you enter into, with third parties. To the extent you use the Home Wav Software to transmit, manage, or create materials or content you represent and warrant that you own or otherwise have the legal rights to use such materials and content and that your use will not infringe, misappropriate or otherwise violate any proprietary, intellectual property, or privacy right of any third party, or violate any applicable law or rules set forth by the Authorizing Facility. You are solely responsible for obtaining the legal rights to make use of such content, materials, and any derivative works used with the Home Wav Software, you further agree to comply with the Acceptable Use Policy set forth below.

5. Acceptable Use Policies.

You may not make use of the Home Wav Software and Services, or the user account created therewith in violation of any law, treaty or regulation of any country, nor may you violate the terms, policies, or rules of the Authorizing Facility to the extent those have been presented to you. Although the HomeWav has no input or enforcement responsibilities on behalf of any particular Authorized facility, Home Wav insists that you not make use of our Software in contravention of any of those rules. Through the Home Wav Agreements with Authorizing Facility, HomeWav has vested in facility the ability to exercise certain administrative controls over the use of our services and the resulting network. Although, HomeWav cannot endeavor to verify or confirm the legal authority by which those administrative guidelines and rules are set forth, if Home Wav is notified that the Software is being used in such a way to circumvent or bypass any administrative settings we reserve the right to take further remedial action under this Agreement.

The following Uses are prohibited, this section is meant to be illustrative and other uses not specifically set forth may also be found to be violations of this Agreement. USES include:

- In any way violating any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming, or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise.
- To send, knowingly receive, upload, download, use, or re-use any material that is harmful, threatening, abusive, harassing, defamatory, libelous, invasive of another's privacy, (b) is pornographic or depicts a human being engaged in actual sexual conduct, or harasses, degrades, intimidates or is hateful toward an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability.
- To transmit, or procure the sending of, any advertising or promotional material for Spamming purposes.
- To impersonate or attempt to impersonate any other person or entity
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Services, or which, as determined by us, may harm HomeWav, The Authorizing Facility, or other affiliates, or expose them to liability.

Additionally, you agree not to:

- Use the Application or Services in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Application or Services, including their ability to engage in real time activities through the Application or Services.
- Use any robot, spider, or other automatic device, process, or means to access the Application or Services for any purpose, including monitoring or copying any of the material on the Application or Services.
- Use any manual process to monitor or copy any of the material on the Application or Services or for any other unauthorized purpose without our prior written consent.
- Use any device, software, or routine that interferes with the proper working of the Application or Services.
- Introduce any viruses, Trojan horses, worms, logic bombs, or other material that is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Application or Services, the server on which the Application or Services is stored, or any server, computer, or database connected to the Application or Services.
- Attack the Application or Services via a denial-of-service attack or a distributed denial-of-service attack.

Otherwise attempt to interfere with the proper working of the Software or Services.

6. Warranty Disclaimer.

THE HOME WAV SOFTWARE AND SERVICES ARE PROVIDED "AS IS" ALL WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, ARE EXPRESSLY DISCLAIMED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. Home Wav is not responsible for any interruption in services or unavailability of the Home Wav Software resulting from Internet failures, your inability to access the Internet, or inadequate bandwidth in your Internet connection.

7. Limitation of Liability.

IN NO EVENT WILL HOME WAV BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR CONTINGENT DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS. THIS NON-LIABILITY FOR DAMAGES APPLIES WHETHER IN AN ACTION BASED ON CONTRACT, TORT OR ANY OTHER SUCH THEORY, EVEN IF HOME WAV HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL HOME WAV'S TOTAL LIABILITY EXCEED THE GREATER OF (a) THE FEES PAID TO HOME WAV FOR YOUR ACCESS IN THE PRIOR 12 MONTH PERIOD OR (b) U.S. \$5.00. THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY EVEN IF YOUR REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

Allocation of Risk: You acknowledge and agree that the foregoing disclaimers and limitations of liability

represent bargained for allocations of risk and that the pricing and other terms and conditions of this agreement reflect such allocation of risk

8. Term and Termination.

This Agreement commences on the Effective Date and continues until and unless otherwise terminated in accordance with its terms or the terms of a Home Wav Agreement.

9. Export Restrictions.

You acknowledge that Home Wav Software is of U.S. origin. You agree to comply with all applicable international and national laws that apply to the Home Wav Software, including the U.S. Export Administration Regulations, as well as end-user, end-use, and destination restrictions issued by U.S. and other governments.

10. Service Levels

The HomeWav Software application and attendant services shall be maintained in a workmanlike manner, with necessary security safeguards. You specifically understand that the quality and speed of services rely on a number of factors beyond our control, such as the speed and operability of users Internet connection. You agree and understand that use of these services may be subject to limitations beyond our control. HomeWav endeavors to provide maximum service levels, however cannot be held responsible for delays, delivery failures or any resulting damages for factors beyond our control.

11. Indemnification.

You will indemnify, defend, and hold harmless Home Wav and its directors, officers, employees, representatives and agents from and against, any and all claims, losses, damages and expenses, including attorney fees, arising from a third party claim to the extent that such third party claim is based on your use of any content or materials, a breach of this Agreement or the Home Wav Agreements, or your negligence or other act or omission in connection with use of the Home Wav Software.

12. Privacy

Users are advised to review the Privacy Policy prior to accepting this agreement as such policy is incorporated by reference into this agreement. You specifically acknowledge that the functionality of the application, and the Home Wav Agreements with Authorizing Facility allow Authorizing Facility to record, monitor or screen communications through our systems. You are advised to review Facility's policies and local rules within your jurisdiction, as well as the Privacy Policy.

13. Relationship of the Parties; No Third Party Beneficiaries.

The parties are independent contractors, and nothing in this Agreement or any attachment hereto will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. There are no third party beneficiaries to this Agreement.

14. Arbitration and Dispute Resolution:

You and Home Wav each agree that any and all disputes, controversies, or claims arising out of or relating to: (a) these Terms and Privacy Policies (ii) your use of, or access to, this Service; or (iii) Home Wav's services shall be resolved exclusively through final and binding arbitration rather than in court. The Federal Arbitration Act governs the interpretation and enforcement of this agreement to arbitrate. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute arising out of or relating to the interpretation, applicability, enforceability or formation of this agreement to arbitrate, any part of it, or of these Terms including, but not limited to, any claim that all or any part of this agreement to arbitrate or the Terms is void or voidable. The arbitrator will decide the substance of all claims in accordance with the laws of the State of Delaware. The arbitrator's award shall be final and binding, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. You can choose to reject this agreement to arbitrate. If you do not wish to be bound by this agreement to arbitrate, you must notify the Company in writing within thirty (30) days of the date that you first access the Website. Your written notification must include your name and address, as well as a clear statement that you do not wish to resolve disputes with the Company through arbitration.

Written notification should be mailed by certified mail to: Home Wav, LLC, 2020 Westport Center Dr, St. Louis, Mo 63146.

YOU AND THE COMPANY AGREE THAT EACH MAY ONLY BRING CLAIMS AGAINST THE OTHER ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR PROCEEDING UNLESS BOTH YOU AND THE COMPANY ACKNOWLEDGE AND AGREE THAT THE WAIVER IS MATERIAL AND ESSENTIAL TO THE ARBITRATION OF ANY DISPUTES BETWEEN THE PARTIES AND IS NON- SEVERABLE FROM THE AGREEMENT TO ARBITRATE CLAIMS. IF THE WAIVER IS LIMITED, VOIDED OR FOUND UNENFORCEABLE, THEN THE PARTIES' AGREEMENT TO ARBITRATE SHALL BE NULL AND VOID WITH RESPECT TO SUCH PROCEEDING, SUBJECT TO THE RIGHT TO APPEAL THE LIMITATION OR INVALIDATION OF THE WAIVER. UNLESS YOU AND THE COMPANY AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S OR PARTY'S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING. ALSO, THE ARBITRATOR MAY AWARD RELIEF (I

**AMENDMENT NO. 1 TO MASTER LICENSE AND SERVICE AGREEMENT
BETWEEN HOMEWAV, LLC AND BUNCOMBE COUNTY (NC)**

THIS AMENDMENT, is made and entered into this 3rd of December 2021, between Buncombe County (NC) through its authorized representative (the "County") and HomeWAV, LLC, a Delaware limited liability company ("HomeWAV").

WHEREAS HomeWAV, LLC and the County are parties to the certain Master License and Services Agreement for video services dated as of April 30th, 2020 ("Video MSA") and the certain Master License and Services Agreement for voice services dated as of March 30th, 2021 ("Voice MSA")

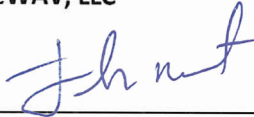
WHEREAS the parties mutually agree to amend the contract to reflect the new information related to billing.

NOW THEREFORE, the parties hereto, intending to be legally bound, hereby do agree to the following amendment:

1. Billing. When the County's inmates use their own commissary funds for HomeWAV services, the County shall transfer said funds to HomeWAV pursuant to monthly invoices.
2. Terms of Original Agreement. All other terms and conditions of the Voice MSA and Video MSA not expressly modified in this amendment shall remain in full force and effect and be considered incorporated herein as part of the amended agreement between the parties.

IN WITNESS WHEREOF, this amendment has been executed and delivered as of the date set forth in the caption above.

HomeWAV, LLC

By: 
Name: John Best
Title: President

**This Instrument has been
preaudited in the manner
required by Local Government
Budget and Fiscal Control Act**



Buncombe County Chief Financial Officer

Buncombe County (NC)

By: 
Name:
Title: