

STATE OF TEXAS           §  
   §  
COUNTY OF FORT BEND   §

**FIFTH AMENDMENT TO  
MASTER SERVICES AGREEMENT FOR  
SHERIFF'S OFFICE INMATE TECHNOLOGY SYSTEMS  
PURSUANT TO RFP 18-021**

This FIFTH AMENDMENT of the Master Services Agreement for Sheriff's Office Inmate Technology Systems Pursuant to RFP 18-021 is made and entered into by and between FORT BEND COUNTY, TEXAS, a body politic, acting herein by and through its Commissioners Court (hereinafter "County") and Securus Technologies, LLC (f/k/a Securus Technologies, Inc.) (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

**RECITALS**

WHEREAS, on or about February 13, 2018, the Parties entered into Master Services Agreement for Sheriff's Office Inmate Technology Systems Pursuant to RFP 18-021, which was amended on or about March 13, 2018, February 12, 2019, March 24, 2020, and December 21, 2021; the Master Agreement and four Prior Amendments are all incorporated by reference;

WHEREAS, the Parties desire to amend the terms as stated herein;

NOW, THEREFORE, for and in consideration of the mutual benefits to be derived by the parties hereto, County and Contractor agree as follows:

I. Amendment: Section One, Scope of Services, is amended as follows:

A. Commission Percentage Change: eMessaging. As of the effective date of the Fifth Amendment, Contractor will pay County a commission of 20% on each redeemed stamp based on the Stamp Book Price (excluding any applicable taxes/fees/surcharges), which may differ from facility to facility. A stamp is considered "redeemed" when it used to send messages. Contractor will remit the payment for a calendar month to County on or before the 30<sup>th</sup> day after the end of the month in which the eMessaging stamps were redeemed (the "Payment Date"). All payments will be final and binding unless Contractor receives written objection within sixty (60) days after the Payment Date.

B. Tablets. Contractor and County agree to move to a ratio of one tablet per one inmate housed on mutually-agreed upon schedule. Contractor will keep County informed of any issues that may arise that could affect said schedule, if any occur. Additionally, Premium content charges will be as follows:

Media Type	Price*
Music – Songs	\$1.19 - \$2.23
Music – Albums	\$1.51 - \$22.93
Games	\$0.00 - \$12.99

Movies	\$3.99 - \$14.99
TV Shows (Per Episode)	\$1.74 - \$2.99

\* Prices represent 95% of content that is offered – outliers (such as an anthology album with more tracks than a typical album) may exist. Prices are inclusive of the price of the content and any applicable fees or costs; however, taxes are not included in the ranges. Prices above are standard prices, but pricing may be subject to temporary changes resulting from sales or promotions. Parties understand that Contractor reserves the right to increase the prices described above on an annual basis by no more than 7/10 of the percentage increase in consumer prices for services during the applicable trailing 12-month period as measured by the United States Consumer Price Index or a similar index should such index no longer be published. Pricing may be adjusted by mutual agreement of the parties.

C. Kiosk Schedule. Depositors will be charged a base fee per transaction for use of Credit cards or Debit cards at the Lobby Kiosk only to the Trust account as follows:

<b>Friends and Family Kiosk Deposit Fees</b>	
<b>Deposit Amounts</b>	<b>Fees</b>
\$0.01 to \$20.00	\$3.95
\$20.01 to \$100.00	\$6.95
\$100.01 to \$200.00	\$8.95
\$200.01 to \$300.00	\$10.95

For Trust Accounts, Friends and Family paying with Cash: Funding fee is \$3.00 flat.

For Phone Funding, Friends and Family using Cash or Credit Card: Funding fee is \$3.00 flat.

<b>Client Kiosk Deposit Fees</b>	
<b>Deposit Amounts</b>	<b>Fees</b>
\$0.01 to \$20.00	\$3.95
\$20.01 to \$100.00	\$6.95
\$100.01 to \$200.00	\$8.95
\$200.01 to \$300.00	\$10.95
\$300.01 to \$400.00	\$12.95
\$400.01 to \$515.00	\$15.50

No fee for cash deposits on Clients Kiosk.

Phone Funding is not available on Client Kiosk.

Pricing may be adjusted by mutual agreement of the parties.

D. Digital Mail Center: Provider Processed and Delivered. As of the effective date of the Fifth Amendment, Contractor will conduct the initial processing of physical mail and its conversion into electronic form, typically within forty-eight (48) hours of receipt. After processing and, if desired, County approval, Contractor will distribute the electronic version of the mails as

agreed by County and Contractor. Contractor will not scan any items that are not reasonably susceptible to scanning (such as boxes, books, stapled papers, publications, money orders, or other such materials which do not consist of printed correspondence on a two-dimensional page). County will inform recipients and friends and family about this restriction and the general process of the Digital Mail Service. If Contractor receives such items, they will be returned to its sender. If Contractor receives mail addressed to a recipient no longer at County's facility, such mail will be returned to its sender. At County's option, physical mail may either be destroyed after thirty (30) to sixty (60) days or forwarded to County (at County's cost), at County's preference. If County elects to withhold mail from delivery to a recipient or directs Contractor to destroy mail per the aforementioned schedule, the County is solely responsible for notifying the recipient and the sender of such actions as may be legally required.

Neither Contractor nor County will process any mail through Digital Mail Center that originates from an attorney's office or is otherwise legally private or privileged. If Contractor receives mail originating from an attorney's office or other private/privileged establishments, Contractor will return it to its sender.

All electronic information associated with the mail, including sender name, time, date, and address along with scanned images will be stored for the Term of the Agreement.

Contractor affirms the cost of Digital Mail Center was considered and included in offering the terms contained in the Fifth Amendment, provided that any additional costs incurred by County described herein in connection with Digital Mail Center may be deducted from compensation otherwise owed to County under the Agreement or invoiced.

County Warranty. County will comply with all privacy, consumer protection, constitutional, marketing, and data security laws and government guidelines applicable to County's access to and use of information obtained in connection with or through Digital Mail Center. County acknowledges and understands that County is solely responsible for its compliance with such laws and that Contractor makes no representation or warranty as to the legality of the use of Digital Mail Center or the information obtained in connection therewith. Contractor will have no obligation, responsibility, or liability for County's compliance with any and all laws, regulations, policies, rules or other requirements applicable to County by virtue of its use of Digital Mail Center. To the fullest extent allowed by law, County agrees to be responsible for any loss, cost, claim, liability, damage, and expense (including, without limitation, reasonable attorney's fees and expenses) arising out County's non-compliance with applicable laws.

Conditional Use of Digital Mail Center. Contractor reserves the right to modify, enhance, or discontinue, in its sole discretion, any or all of the features that are currently part of Digital Mail Center. Moreover, if Contractor determines in its sole discretion that Digital Mail Center and/or County's use thereof (1) violates the terms and conditions set forth herein; (2) violates any applicable rule; or (3) is reasonable likely to be so determined, Contractor may, upon written notice, immediately terminate County's access to Digital Mail Center and shall have no further liability or responsibility to County with respect thereto.

Disclaimer of Warranties. COUNTY UNDERSTANDS AND ACKNOWLEDGES THAT DIGITAL MAIL CENTER AND ALL INFORMATION USED AND OBTAINED IN CONNECTION WITH

DIGITAL MAIL CENTER ARE PROVIDED "AS IS." CONTRACTOR AND ITS SUBSIDIARIES DO NOT MAKE AND HEREBY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO DIGITAL MAIL CENTER. CONTRACTOR DOES NOT GUARANTEE OR WARRANT THE CORRECTNESS, COMPLETENESS, LEGALITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF DIGITAL MAIL CENTER OR INFORMATION OBTAINED IN CONNECTION THEREWITH. IN NO EVENT WILL CONTRACTOR AND ITS SUBSIDIARIES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, HOWEVER ARISING, INCURRED BY COUNTY FROM RECEIPT OR USE OF INFORMATION OBTAINED IN CONNECTION WITH DIGITAL MAIL CENTER OR THE UNAVAILABILITY THEREOF.

Limitation of Liability. CONTRACTOR WILL HAVE NO LIABILITY COUNTY (OR TO ANY PERSON TO WHOM COUNTY MAY HAVE PROVIDED DATA FROM DIGITAL MAIL CENTER) FOR ANY LOSS OR INJURY ARISING OUT OF OR IN CONNECTION WITH DIGITAL MAIL CENTER OR CUSTOMER'S USE THEREOF. IF, NOTWITHSTANDING THE FOREGOING, LIABILITY CAN BE IMPOSED ON THE CONTRACTOR, COUNTY AGREES THAT CONTRACTOR'S AGGREGATE LIABILITY FOR ANY AND ALL LOSSES OR INJURIES ARISING OUT OF ANY ACT OR OMISSION OF PROVIDER IN CONNECTION WITH DIGITAL MAIL CENTER, REGARDLESS OF THE CAUSE OF THE LOSS OR INJURY, AND REGARDLESS OF THE NATURE OF THE LEGAL OR EQUITABLE RIGHT CLAIMED TO HAVE BEEN VIOLATED, WILL NEVER EXCEED THE AMOUNT PAID BY COUNTY FOR DIGITAL MAIL CENTER. COUNTY COVENANTS AND PROMISES THAT IT WILL NOT SEEK TO RECOVER FROM CONTRACTOR AN AMOUNT GREATER THAN SUCH SUM EVEN IF COUNTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Indemnification. EXCEPT FOR THOSE APPLICATIONS BEING PROVIDED AT NO COST TO COUNTY, AND AT NO COMMISSION TO CONTRACTOR, CONTRACTOR SHALL SAVE HARMLESS COUNTY FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES. CONTRACTOR WILL HAVE NO LIABILITY TO COUNTY FOR ANY LOSS OR INJURY ARISING FROM OR IN ANY WAY RELATED TO EITHER PARTY'S USE OF THE SECURUS DIGITAL MAIL CENTER APPLICATION OR INFORMATION OBTAINED IN CONNECTION THEREWITH.

- II. Inflation Adjustments. To the extent permitted by applicable law and regulation and upon mutual agreement in writing between the parties, Contractor reserves the right to increase the prices described in the Agreement on an annual basis by the percentage increase in consumer prices for Services during the applicable trailing 12-month period as measured by the United States Consumer Price Index or a similar index should such index no longer be published. Notwithstanding the foregoing limitation on price increases, Contractor reserves the right to increase prices upon 30 days' notice in the event of a cost increase that exceeds 3% of Contractor's current costs directly related to the provision of Applications under this Agreement.
- III. Express Warranties. Contractor offers the following express warranties in connection with the Applications. Additional warranties may be provided in the relevant Scope of Services sections:

Express Warranty for Hardware and Software Deployed and Owned by Contractor. For hardware and software deployed and owned by Contractor and provided to County pursuant to the Agreement, Contractor agrees to repair and maintain such hardware and software in good operating condition (ordinary wear and tear excepted), including, without limitation, furnishing all parts and labor during the term of the Agreement. Notwithstanding the foregoing, Contractor is not responsible for any repair, maintenance, replacement or other costs associated with damage due to destruction, vandalism, misuse, neglect, accident, misapplication, abuse or other similar breakage ("Breakage"), and County shall be responsible for the cost of such Breakage, including, but not limited to replacement costs. County will be charged for repair costs incurred due to Breakage, up to the amount of replacement of the applicable equipment. Such charges will be deducted from the next commission payment, or invoiced to the County. County agrees to promptly notify Contractor in writing after discovering any damage due to Breakage. Contractor will have no obligation to repair or maintain such hardware or software, if the Applications are, without Contractor's knowledge and approval, interfaced with other devices or software owned or used by County or a third party, or if the Applications are otherwise damaged as a result of County's actions.

Express Warranty for Hardware and Software Purchased and Owned By County. For hardware and software purchased from Contractor and owned by County pursuant to the Agreement, Contractor warrants that such materials will be free from material defects under normal use, maintenance, and service for a period of ninety (90) days from the date of sale. Contractor makes no warranty with respect to low performance, damages, or defects in any such materials caused by Breakage, nor does Contractor make any warranty as to any such materials that County has repaired or altered in any way. County will be charged for repair costs incurred due to Breakage, up to the amount of replacement of the applicable equipment. Such charges will be deducted from the next commission payment, or invoiced to the County. When express warranties are applicable, Contractor will replace the applicable materials at no cost, with is County's sole remedy in connection with a claim pursuant to this section.

- IV. Uncontrollable Circumstances. The financial arrangements in this Agreement are based on conditions existing as of the Effective Date; including, without limitation, any representations regarding existing and future conditions made by the County in connection with the negotiation and execution of this Agreement. If conditions change due to causes beyond Contractor's control (including, but not limited to, a change in the scope of Contractor's Services; changes in rates, regulations, or operations mandated by law; material reduction in facility population or capacity; material changes in jail policy; material change in economic conditions; actions County takes for security reasons (*e.g.*, lockdowns or acts of God) which would negatively impact Contractor's business, the parties mutually agree to modify the Agreement to offset the impact of such change. Such modifications may include any or a combination of an adjustment to Contractor's pricing or modification of the Application offerings under the Agreement. Contractor will not unreasonably exercise such right. The foregoing shall be in addition to, and with limitation of, the parties' rights and obligations set forth herein in respect of an event of Force Majeure or any other rights of Contractor to adjust pricing set forth in this Agreement. Further, County acknowledges that Contractor's provision of Services is subject to certain federal, state, or local regulatory requirements and restrictions that are subject to change from time-to-time and that Contractor may take any steps necessary to perform in compliance therewith.

- V. This Fifth Amendment shall commence on the last date signed by either party and remain in effect through the term of the Agreement. Further, the Term of the Agreement shall be extended by an additional twelve (12) months, with a modified end date of March 31, 2024 under the terms and conditions of the Agreement. Notwithstanding anything to the contrary, the terms and conditions of the Agreement shall continue to apply for so long as Contractor continues to provide the Applications to County after the expiration or earlier termination of this Agreement.
- VI. Except as modified herein, any prior executed document remains in full force and effect and has not been modified or amended. In the event of conflict, the contents of the most recently executed document shall prevail.

***{Remainder of page intentionally left blank}***

***{Execution page to follow}***

VII. Execution.

IN TESTIMONY OF WHICH, THIS AMENDMENT shall be effective up on execution of all parties.

<p>ATTEST:</p> <p>_____</p>	<p>"County"</p> <p>FORT BEND COUNTY</p> <p>By: _____</p> <p>KP George,</p> <p>Fort Bend County Judge</p> <p>Date: _____</p>
<p>ATTEST:</p> <p><i>Helexie Strzelecki</i></p> <p>8/15/2023</p>	<p>"Contractor"</p> <p>Securus Technologies, LLC (f/k/a Securus Technologies, Inc.)</p> <p>By: <i>[Signature]</i></p> <p>Name: _____ Alex Yeo</p> <p>Title: _____ Chief Revenue and Product Officer</p> <p>Date: _____ 08/15/2023</p>

Reviewed By:

*[Signature]*  
Eric Fagan, Fort Bend County Sheriff



**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$ \_\_\_\_\_ to accomplish and pay the obligation of Fort Bend County under this contract.

\_\_\_\_\_  
Robert Ed Sturdivant, County Auditor