

**FIRST AMENDMENT TO
TULARE COUNTY AGREEMENT NO. 28369**

THIS FIRST AMENDMENT (“Amendment”) to Tulare County Agreement Number 28369 (the “Agreement”) is entered into by and between the **COUNTY OF TULARE** (“COUNTY”) and **TouchPay Holdings, LLC, a Texas limited liability company d/b/a GTL FINANCIAL SERVICES** (“CONTRACTOR”) as of October 1, 2020, with reference to the following:

- A. The COUNTY and CONTRACTOR entered into the Agreement on October 1, 2017, for the purpose of providing inmate money handling kiosk service at correctional facilities;
- B. The Agreement is set to expire on September 30, 2020; and
- C. COUNTY and CONTRACTOR now wish to amend the Agreement in order to extend the duration of this Agreement on a month to month basis, to expire September 30, 2021.

ACCORDINGLY, COUNTY and CONTRACTOR agree as follows:

1. Section III SPECIFIC TERMS of the Agreement is hereby revised to read as follows:

TERM: This agreement becomes effective as of October 1, 2020 and shall remain in effect on a month to month basis for a period not to exceed one (1) year unless otherwise terminated as provided in this Amendment.

2. Effective October 1, 2020, Section IV. General Terms, Paragraph 12, of the Agreement is hereby revised to read as follows:

13. **TERMINATION: (a) Without Cause:** COUNTY may terminate this Agreement without cause by giving thirty (30) days’ prior written notice to CONTRACTOR of its intention to terminate under this provision, specifying the date of termination. COUNTY will pay to CONTRACTOR the compensation earned for work satisfactorily performed and not previously paid for to the date of termination. COUNTY will not pay lost anticipated profits or other economic loss. The payment of any compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CONTRACTOR of all plans, specifications and estimates, and other documents prepared by CONTRACTOR in accordance with this Agreement. COUNTY will not impose sanctions on CONTRACTOR under these circumstances.

(b) With Cause: Either Party may terminate this Agreement immediately, by written notice to the other Party, should the other Party:

- (1) Be adjudged a bankrupt, or

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- (2) Become insolvent or have a receiver appointed, or
- (3) Make a general assignment for the benefit of creditors, or
- (4) Suffer any judgment that remains unsatisfied for 30 days, and that would substantively impair the ability of the judgment debtor to perform under this Agreement, or
- (5) Materially breach this Agreement.
- (6) Material misrepresentation, either by CONTRACTOR or anyone acting on CONTRACTOR'S behalf, as to any matter related in any way to COUNTY'S retention of CONTRACTOR, or
- (7) Other misconduct or circumstances that, in the sole discretion of COUNTY, either impairs the ability of CONTRACTOR to competently provide the services under this Agreement, or exposes COUNTY to an unreasonable risk of liability.

For any of the occurrences except item (5) above, termination may be effected upon written notice by the terminating Party specifying the date of the termination. If CONTRACTOR fails to perform according to the terms and conditions of this Agreement, then COUNTY may, in addition to any other remedy it may have, issue a declaration of default after 10 days' written notice to CONTRACTOR.

Upon a material breach, the Agreement may be terminated after the failure of the defaulting Party to remedy the breach to the satisfaction of the non-defaulting Party within 5 days of written notice specifying the breach. If the breach is not remedied within that 5-day period, then the non-defaulting Party may terminate this Agreement on further written notice specifying the date of termination. If the nature of the breach is such that it cannot be cured within a 5-day period, then the defaulting Party may submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting Party consents to that proposal in writing, which consent may not be unreasonably withheld, then the defaulting Party must immediately embark on its plan to cure the default or breach. If the default or breach is not cured within the time agreed, then the non-defaulting Party may terminate this Agreement upon written notice specifying the date of termination.

COUNTY will pay to CONTRACTOR the compensation earned for work satisfactorily performed and not previously paid for to the date of termination. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CONTRACTOR of all plans, specifications and estimates, and other documents prepared by CONTRACTOR by the date of termination in accordance with this Agreement. COUNTY will not pay lost anticipated profits or other economic loss, nor will COUNTY pay compensation or make reimbursement to cure a breach arising out of or resulting from such termination. If COUNTY terminates this Agreement for cause and the expense of finishing CONTRACTOR'S scope of work exceeds the

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unpaid balance of the Agreement, then CONTRACTOR must pay the difference to COUNTY. COUNTY may impose sanctions under these circumstances, which may include possible rejection of future proposals based on specific causes of CONTRACTOR'S non-performance.

(c) Effects of Termination: Expiration or termination of this Agreement will not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities. Where COUNTY terminates CONTRACTOR'S services, that termination will not affect any rights of COUNTY to recover damages against CONTRACTOR.

(d) Suspension of Performance: Independent of any right to terminate this Agreement, the authorized representative of the COUNTY department or agency for which CONTRACTOR'S services are to be performed, may immediately suspend performance by CONTRACTOR, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by CONTRACTOR to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

3. This First Amendment becomes effective as of October 1, 2020.

4. Except as provided above, all other terms and conditions of the Agreement shall remain in full force and effect.

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THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

**TouchPay Holdings, LLC, a Texas
limited liability company d/b/a GTL
FINANCIAL SERVICES**


Date 8-24-20

By 

Print Name Matthew Caesar

Title President

Date 8/24/2020

By 

Print Name Andrew Ritter

Title VP + CFO

[Pursuant to Corporations Code section 313, County policy requires that contracts with a Corporation be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of a resolution of the corporation's Board of Directors authorizing the execution of the contract. Similarly, pursuant to California Corporations Code section 17703.01, County policy requires that contracts with a Limited Liability Company be signed by at least two managers, unless the contract is accompanied by a certified copy of the articles of organization stating that the LLC is managed by only one manager.]

COUNTY OF TULARE

Date _____

By _____

Pete Vander Poel, Chair,
Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By _____
Deputy Clerk

Approved as to Form:
County Counsel

By  Date 8/26/20
Deputy

Matter # 2020845