

**ATTACHMENT A**

**CONTRACT FOR**

**OPERATION AND MANAGEMENT OF GADSDEN CORRECTIONAL  
FACILITY**

**DMS-17/18-023**

**BETWEEN**

**THE STATE OF FLORIDA**

**DEPARTMENT OF MANAGEMENT SERVICES**

**AND**

**<<PARTY NAME>>**

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Exhibit A – Fixtures, Furnishings & Equipment Inventory

Exhibit B – Transfer Agreement

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Exhibit G – POIIWTF Budget Summary

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## Contract

This contract is between the STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES (“Department”), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and (“CONTRACTOR”) with offices at <insert address>, each a “Party” and collectively referred to herein as the “Parties”.

The Parties enter into this Contract in accordance with the terms and conditions of solicitation DMS-17/18-023 Operation and Management of Gadsden Correctional Facility.

The Parties therefore agree as follows.

### SECTION 1. Definitions and Acronyms

All personal pronouns used in this Contract, whether used in the masculine, feminine, or gender-neutral, shall include all other genders; the singular shall include the plural; and the plural shall include the singular.

- 1.1 **ACA:** American Correctional Association.
- 1.2 **ACA STANDARDS:** The Standards for Adult Correctional Institutions (Fourth Edition, 2003) published by the American Correctional Association (ACA) (as heretofore supplemented and as same may be modified, updated, or supplemented in the future).
- 1.3 **ADA:** Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et. seq.).
- 1.4 **AUTHORIZED REPRESENTATIVE:** The person designated in writing to act for and on behalf of a party to this Contract, which designation has been furnished to the other party hereto.
- 1.5 **BREACH OF CONTRACT:** Any of the events or circumstances described in section 10, Default and Termination Provisions.
- 1.6 **BUREAU:** The Florida Department of Management Services, Bureau of Private Prison Monitoring.
- 1.7 **BUREAU CHIEF:** The Department of Management Services employee responsible for the administrative and operational activities within the Bureau of Private Prison Monitoring.
- 1.8 **CHO:** Chief Health Officer, who serves as the medical authority for the facility.
- 1.9 **CONTRACT:** This Contract, together with all attachments, exhibits, amendments, and modifications entered into between DMS and CONTRACTOR, including those documents referenced in section 2.7 herein.
- 1.10 **CONTRACTOR:** The firm awarded this Contract to operate and manage the Facility. The Contractor for this Contract is <TBD>. The term Contractor shall include all employees, subcontractors, agents, volunteers, authorized representatives, or anyone acting on behalf of, in the interest of, or for, CONTRACTOR.
- 1.11 **COURT ORDERS:** Any existing or future orders or judgments issued by a court of competent jurisdiction or any existing or future stipulations, agreements, or plans entered into in connection with litigation that are applicable to the operation, management, or maintenance of the Facility or related to the care and custody of inmates at the Facility.
- 1.12 **CMA:** The Correctional Medical Authority.
- 1.13 **DAY:** A calendar day.

- 1.14 **DCF**: The Florida Department of Children and Families.
- 1.15 **DEPARTMENT OR DMS**: The Florida Department of Management Services.
- 1.16 **DOE**: The Florida Department of Education.
- 1.17 **DOH**: The Florida Department of Health.
- 1.18 **EFFECTIVE DATE**: The date this Contract is made and entered. If CONTRACTOR is not the Incumbent Provider, the parties will use the time between the Effective Date and the Service Commencement Date to transfer operation of the facility from the Incumbent Provider to CONTRACTOR in accordance with section 2, Term of the Contract; Transition Period; Representations.
- 1.19 **FACILITY**: The 1,250-bed capacity secure correctional facility located in Gadsden County, Florida, and designed and constructed for the detention of female minimum/medium/close custody inmates. Further adjustment of the capacity of this Facility may be authorized by DMS. In the event further adjustment of the capacity of the Facility occurs, per diem and other adjustments may be made upon mutual agreement of the parties.
- 1.20 **FACILITY MAINTENANCE MONITOR**: The employee or employees of DMS designated to monitor the maintenance and physical plant operations of the Facility for contract compliance and to coordinate actions and communications between DMS and CONTRACTOR.
- 1.21 **FDC**: The Florida Department of Corrections.
- 1.22 **FDLE**: The Florida Department of Law Enforcement.
- 1.23 **FORCE MAJEURE**: Force majeure is an act or acts of nature (i.e., hurricane, tornado, earthquake, natural fire) or an act or acts of a person or people (i.e., riot, labor strike, act of terrorism, war, national emergency) that can be neither anticipated nor controlled by the parties, and which cause(s) and ordinarily excuse(s) the delay or failure in performance by one or both parties of any of the terms and conditions of this Contract.
- 1.24 **GAAP**: Generally Accepted Accounting Principles determined by the Governmental Accounting Standards Board.
- 1.25 **HIPAA**: Health Insurance Portability and Accountability Act of 1996 (42 U. S. C. §1320d-8)
- 1.26 **HSB**: FDC's Health Service Bulletins and Technical Instructions.
- 1.27 **INMATE**: Any person assigned by FDC to be housed at the Facility.
- 1.28 **INMATE DAY**: Each day on which an inmate is housed at the Facility, including the first, but not the last, day of incarceration as determined by the midnight count of each day.
- 1.29 **LEASED FURNISHINGS AND EQUIPMENT**: The items of personal property as described in section 3.2, Possession of Leased Furnishings and Equipment, leased to DMS pursuant to the terms and provisions of the Lease Purchase Agreement.
- 1.30 **LEASE PURCHASE AGREEMENT**: the original Amended and Restated Lease Agreement between DMS and the Florida Correctional Finance Corporation dated November 13, 2001, and all subsequent financed expansions and Amended and Restated agreements, with Option to Purchase funding mechanism employed to fund the Facility.
- 1.31 **OIG**: Department of Corrections Office of the Inspector General.
- 1.32 **ON-SITE CONTRACT MONITOR**: The employee or employees of DMS designated to monitor the operation of the Facility for contract compliance and to coordinate actions and communications between DMS and CONTRACTOR.

- 1.33 **OPPAGA**: The Office of Program Policy Analysis and Government Accountability.
- 1.34 **OSHA**: The Occupational Safety & Health Administration.
- 1.35 **PER DIEM RATE**: The cost charged per inmate, per inmate day for the delivery of operation and management services at the Facility.
- 1.36 **PRIVATELY OPERATED INSTITUTION INMATE WELFARE TRUST FUND (POIITWF)**: A trust fund account maintained by FDC that is required by section 945.215, Florida Statutes, and into which the net proceeds derived from operating inmate canteens, vending machines used primarily by inmates, receipts from telephone commissions, and similar sources shall be deposited monthly.
- 1.37 **SERVICE COMMENCEMENT DATE**: The date on which CONTRACTOR shall begin providing operations and management services at the Facility. The Service Commencement Date shall be <INSERT DATE>.
- 1.38 **STATE**: The State of Florida, including the Florida Department of Management Services or any other state government entity referenced therein.
- 1.39 **SUBCONTRACT**: An agreement entered into by CONTRACTOR with any other person or entity to perform any performance obligation for CONTRACTOR specifically related to securing or fulfilling CONTRACTOR's obligations to DMS under the terms of this Contract.
- 1.40 **SUBCONTRACTOR**: Any person or entity other than an employee of CONTRACTOR who performs or agrees to perform any of CONTRACTOR's obligations under the terms of this Contract.
- 1.41 **TRANSFER AGREEMENT**: Exhibit B to this Contract (Attachment C to RFP DMS-17/18-023), Transfer Agreement between DMS, CONTRACTOR, and FDC that establishes guidelines for transfer of inmates between the Facility and facilities operated by FDC.
- 1.42 **UNFORESEEN CIRCUMSTANCES**: Those acts or occurrences beyond the reasonable contemplation of the parties at the time of execution of this Contract that materially alter the financial conditions upon which this Contract is based.
- 1.43 **WARDEN**: Individual in charge of the institution; the chief executive or administrative officer.

## **SECTION 2. Term of the Contract; Transition Period; Representations**

### **2.1 Term**

This Contract shall commence at 12:01 a.m. on the Service Commencement Date of <INSERT DATE> and terminate on <INSERT DATE> (i.e., three (3) years after the Service Commencement Date), unless terminated earlier pursuant to section 10, Default and Termination Provisions of this Contract.

### **2.2 Renewal Term**

Upon mutual agreement, the parties may renew the Contract, in whole or in part, for successive two (2) year renewal terms, pursuant to section 957.04(1)(h), Florida Statutes. Any renewal shall be at the price submitted pursuant to the solicitation. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds. The renewal must meet the savings requirements as set forth in section 957.07, Florida Statutes. In addition, the Contractor shall not charge any costs for renewal of the Contract.

### **2.3 Commencement of Services**

CONTRACTOR'S obligation to provide services under this Contract, and DMS' obligation to pay for those services, shall begin on the Service Commencement Date.

### **2.4 Transition Period**

If CONTRACTOR is not the same company that currently operates and maintains the Facility, the following provisions shall apply:

**2.4.1** Within three (3) days of the Effective Date, CONTRACTOR shall meet with DMS and the current operator of the Facility (the "Incumbent Provider") to develop and implement a plan to ensure an orderly and efficient transition from the Incumbent Provider to CONTRACTOR. During this transition period, CONTRACTOR shall have access to all necessary records, files, and documents for the operation of the Facility, including but not limited to inmate records, maintenance records, and personnel files. All expenses CONTRACTOR may incur during the transition period prior to the Service Commencement Date shall be the sole responsibility of the CONTRACTOR.

**2.4.2** CONTRACTOR shall interview and provide first choice of employment to those existing employees and subcontractors at the Facility who would otherwise be displaced by this Contract. CONTRACTOR shall provide regular reports to DMS, not less than weekly, on the status of such interviews and the transition in general. If CONTRACTOR elects to not hire a displaced employee, CONTRACTOR shall identify in the report the name of the employee and the reasons for the decision not to hire.

### **2.5 Representations of the Department**

The Department represents and warrants to and for the benefit of CONTRACTOR, with the intent that CONTRACTOR will rely thereon for purposes of entering into this Contract, as follows:

**2.5.1** Authorization. This Contract has been duly authorized, executed, and delivered by DMS and, assuming due execution and delivery by DMS, constitutes a legal, valid, and binding agreement enforceable against DMS in accordance with its terms, subject to section 9, Certain Prohibitions.

**2.5.2** Disclosure. There is no material fact which materially and adversely affects or in the future will (so far as DMS can now reasonably foresee) materially and adversely affect DMS' ability to perform its obligations under this Contract which has not been accurately set forth in this Contract or otherwise accurately disclosed in writing to Contractor prior to the date hereof.

### **2.6 Representations of the Contractor**

CONTRACTOR represents and warrants to and for the benefit of DMS, with the intent that DMS will rely thereon for purposes of entering into this Contract, as follows:

**2.6.1** Organization and Qualification. CONTRACTOR has been duly incorporated and validly exist as a corporation in good standing under the laws in its jurisdiction of incorporation with power and authority to own its properties and conduct its

business as presently conducted. CONTRACTOR is duly qualified to do business as a corporation in good standing in Florida.

- 2.6.2** Authorization. This Contract has been duly authorized, executed, and delivered by CONTRACTOR, and constitutes a legal, valid, and binding agreement enforceable against CONTRACTOR in accordance with its terms.
- 2.6.3** No Defaults under Contract. CONTRACTOR is not in default, nor is there any event in existence which, with notice or the passage of time or both, would constitute a default by CONTRACTOR, under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, contract, governmental license or permit, or other agreement or instrument to which it is a party or by which any of its properties are bound and which default would materially and adversely affect CONTRACTOR's ability to perform its obligations under this Contract.
- 2.6.4** Compliance with Laws. CONTRACTOR shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies having jurisdiction and authority. Chapters 287 of the Florida Statutes and Rule 60A of the Florida Administrative Code govern the Contract. The CONTRACTOR agrees to comply with the Americans with Disabilities Act and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violations of any laws, rules, codes, ordinances or licensing requirements shall be grounds for contract termination or non-renewal of the contract.

Neither CONTRACTOR nor its officers and directors purporting to act on behalf of CONTRACTOR have been advised, nor do they have reason to believe, that CONTRACTOR or such officers and directors have been conducting business in any manner that fails to comply with all applicable laws, rules, and regulations of the jurisdictions in which CONTRACTOR conducts business. This includes all safety laws, and laws with respect to discrimination in hiring, promotion, or pay of employees, or other laws affecting employees generally, except where failure to be so in compliance would not materially and adversely affect CONTRACTOR's ability to perform its obligations under this Contract.

- 2.6.5** Scrutinized Companies – Termination by the Department. The Department may, at its option, terminate the Contract if the Contractor is found to have submitted a false certification as provided under section 287.135(5), F.S., or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.
- 2.6.6** No Litigation. Except as previously disclosed in writing to DMS, there is not, to the knowledge of CONTRACTOR, any existing, threat of, or pending action, suit, or proceeding to which CONTRACTOR is a party, before or by any court or governmental agency or body, which might result in any material adverse change in CONTRACTOR's ability to perform its obligations under this Contract, or any such action, suit, or proceeding related to environmental or civil rights matters: and

no labor disturbance by the employees of CONTRACTOR exists or is imminent which might be expected to materially and adversely affect CONTRACTOR's ability to perform its obligations under this Contract.

**2.6.7 Taxes.** CONTRACTOR has filed all necessary federal, state, and foreign income and franchise tax returns and has paid all taxes as shown to be due thereon; CONTRACTOR has no knowledge of any tax deficiency, which has been or might be asserted against CONTRACTOR, which would materially and adversely affect CONTRACTOR's ability to perform its obligations under this Contract.

**2.6.8 Disclosure.** The Contractor shall submit written certification before contract execution, and annually thereafter, stating there is no material fact which materially and adversely affects or in the future will (so far as CONTRACTOR can now reasonably foresee) materially and adversely affect CONTRACTOR's ability to perform its obligations under this Contract which has not been accurately set forth in this Contract or otherwise accurately disclosed in writing to DMS prior to the date hereof. Failure to disclose such material facts, as described above, at any point in the Contract term is grounds for termination for false representation.

## **2.7 Contract Documents and Hierarchy**

This Contract sets forth the entire understanding of the Parties and consists of the documents listed below. In the event any of these documents conflict, the conflict will be resolved in the following order of priority (highest to lowest):

- 2.7.1** This Contract document and any amendments, exhibits, or attachments thereto.;
- 2.7.2** RFP DMS-17/18-023 Operation and Management of Gadsden Correctional Facility and any addenda in reverse order of issuance;
- 2.7.3** The General Contract Conditions - PUR 1000 form, which are incorporated by reference, and available at:  
[https://www.dms.myflorida.com/content/download/2933/11777/PUR\\_1000\\_General\\_Contract\\_Conditions.pdf](https://www.dms.myflorida.com/content/download/2933/11777/PUR_1000_General_Contract_Conditions.pdf);
- 2.7.4** Contractor's Response to RFP DMS-17/18-023.

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- 2.7.5** The Contract Administrator whose responsibilities will be to maintain this Contract is as follows:

TBD  
Departmental Purchasing  
Florida Department of Management Services  
4050 Esplanade Way, Suite 335A  
Tallahassee, Florida 32399-0950  
Telephone: (850) 413-7190  
Email: [dms.purchasing@dms.myflorida.com](mailto:dms.purchasing@dms.myflorida.com)

In the event that DMS changes the Contract Administrator, DMS will notify the CONTRACTOR in writing via email. Such changes do not require a formal written amendment to the Contract.

- 2.7.6** The Contract Manager who is primarily responsible for overseeing the Contractor's performance of its duties and obligations pursuant to the terms of this Contract shall be as follows:

Neal Morris  
Bureau of Private Prison Monitoring  
Florida Department of Management Services  
4050 Esplanade Way, Suite 380E  
Tallahassee, Florida 32399-0950  
Telephone: (850) 921-4034  
Email: [Neal.Morris@dms.myflorida.com](mailto:Neal.Morris@dms.myflorida.com)

In the event that DMS changes the Contract Manager, DMS will notify the CONTRACTOR in writing via email. Such changes do not require a formal written amendment to the Contract.

- 2.7.7** Contractor Representative  
The CONTRACTOR's employee who is primarily responsible for overseeing the CONTRACTOR's performance of its duties and obligations pursuant to the terms of this Contract shall be:

Jane Doe  
<Insert vendor name>  
<Insert vendor physical address>  
Telephone: (850) XXX-XXXX  
Email: [jane.doe@xxxxxx.com](mailto:jane.doe@xxxxxx.com)

### **SECTION 3. Possession of the Facility and Inventory**

#### **3.1 Possession of Facility**

On the Service Commencement Date, DMS shall grant CONTRACTOR exclusive use, possession, and control of the land and property comprising the Facility and its grounds, subject to terms of this Contract and to the right of DMS and other appropriate parties (including, but not limited to, OPPAGA, FDC, CMA, DOH, OSHA, DCF, Legislative staff) to enter and/or inspect the Facility, programs, health services, food services, and its grounds pursuant to section 3.10, Access to the Facility.

### **3.2 Possession of Leased Furnishings and Equipment**

On the Service Commencement Date, DMS will grant CONTRACTOR exclusive use and possession, subject to the terms of this Contract, of Leased Furnishings and Equipment. Items purchased with state funds are owned by the State of Florida and shall remain with the Facility in the event of termination or non-renewal of this Contract. All Leased Furnishings and Equipment are State property, except for CONTRACTOR Property as set forth under Contract section 3.5, Contractor Property. CONTRACTOR will provide a list of all property and the designated ownership before Service Commencement Date. See Exhibit A - Fixtures, Furnishings & Equipment Inventory, which is attached to RFP DMS-17/18-023 as Attachment B.

### **3.3 Inventory**

As part of CONTRACTOR's initial responsibility, CONTRACTOR shall prepare and maintain a current inventory of Leased Furnishings and Equipment. Such inventory shall include the manufacturer, model number, serial number, monetary value (purchase cost), and assigned identification number. Leased Furnishings and Equipment shall remain part of the Facility and may not be removed from the Facility, without approval from the On-Site Contract Monitor. The Department of Management Services shall be entitled to conduct an inventory of Leased Furnishings and Equipment prior to or within a reasonable time after the Service Commencement Date, and shall be entitled to conduct an inventory of Leased Furnishings and Equipment throughout the Term of this Contract. CONTRACTOR shall cooperate with the Department in its conducting of all inventories of Leased Furnishings and Equipment. The inventory will be recorded on Exhibit A - Fixtures, Furnishings & Equipment Inventory. Inventory will indicate whether item was purchased with State funds or designated as CONTRACTOR Property. Report will be in an MS Office Excel format submitted quarterly to the On-Site Contract Monitor by electronic means. State property will be designated with a sticker indicating it was purchased with State funds. All fixtures, furnishings, and equipment purchased with POIIWTF will be inventoried and labeled as State property and identified as "POIIWTF." CONTRACTOR will provide an inventory/asset management system/database supported by software which includes a bar coding system that can export/convert the data into a Microsoft Excel format. The inventory/asset management system/database should allow features, including but not limited to, the specific detail captured in Attachment B – Fixtures, Furnishings and Equipment Inventory, to be captured and provide inventory verification and detailed reports that can be exported to Microsoft Excel format. Features should include, at a minimum, the items listed above and the location, history and life span/replacement schedule for each inventory item.

### **3.4 Replacement of Inventory**

Limited to those facility furnishings, fixtures, and equipment described in section 3.2, Possession of Leased Furnishing and Equipment, and covered by the major maintenance and repair reserve fund set forth in section 3.9, Major Maintenance and Repair Reserve Fund, CONTRACTOR shall replace within sixty (60) days of the date of discovery of loss, theft, damage or inoperability beyond repair with new items or equipment having like functional ability, life expectancy and quality of the items or equipment replaced. Such replacement of State equipment shall be added to the inventory and shall become the property of the State. The On-Site Contract Monitor shall be notified quarterly, in writing, when an item of Leased Furnishings and Equipment is replaced. Such notification must include all pertinent information (including a copy of the purchase receipt showing purchase cost, manufacturer, model number, serial number and assigned identification number) for the replaced item. Inoperable items replaced by CONTRACTOR shall be

disposed of by CONTRACTOR with prior approval by DMS and in compliance the DMS' Property Asset Management (PAM) policy.

### **3.5 Contractor Property**

CONTRACTOR will provide such other machinery, equipment, fixtures and furnishings that (i) CONTRACTOR deems necessary for the operation, maintenance and administration of the Facility, (ii) are integral and related to the operation, maintenance, and administration of the Facility, or (iii) were offered as part CONTRACTOR'S response to DMS-17/18-023 Operations and Maintenance of Gadsden Correctional Facility RFP. Such machinery and equipment shall be included in the costs of the project and delivered prior to Service Commencement Date. Exhibit A - Fixtures, Furnishings & Equipment Inventory is a jointly prepared property inventory listing each item and noting the condition of each such item. Unless otherwise specified herein, all such furniture, fixtures and equipment shall be new when delivered to the Facility. Ownership of this property shall remain with CONTRACTOR and this property may be removed from the premises at any time by CONTRACTOR, provided that any damage to the Facility resulting from any removal pursuant to this section shall be repaired by CONTRACTOR at the expense of CONTRACTOR. Documentation of costs shall be provided quarterly to the On-Site Contract Monitor.

### **3.6 Sanitation and Hygiene**

CONTRACTOR shall provide an environmentally clean, healthy, and safe Facility for both employees and inmates. CONTRACTOR will be responsible for the following:

- 3.6.1** Sanitation and hygiene will be maintained at a minimum, at a level equivalent to the level of FDC facilities. All floors, including concrete shall be waxed and buffed. All areas of the Facility shall be maintained free of cobwebs or dust build-up, including ceiling and wall grills. Any dirt and/or dust-build up will not be permitted. The yards will be free of all trash. All kitchen equipment and utensils shall be free of grease build-up.
- 3.6.2** CONTRACTOR will inspect all areas of the Facility daily for cleanliness and shall provide documentation of such inspections to the On-Site Contract Monitor.
- 3.6.3** Lighting, and Heating, Ventilation and Air Conditioning (HVAC) equipment shall function at all times.
- 3.6.4** No fire, safety, or health hazards shall exist.
- 3.6.5** All plumbing equipment, including toilets, sinks, and showers shall be clean and shall function properly at all times.
- 3.6.6** All hazardous chemicals shall be inventoried, stored and maintained in accordance with OSHA's policy and procedures, and FDC policy and procedure. Inventories and inspection documentation shall be made available to the On-Site Contract Monitor as requested.
- 3.6.7** Food service areas shall be clean and in compliance with applicable State health regulations, and FDC policy and procedure.

**3.6.8** Copies of all inspection reports, including internal and reports from governing agencies, will be submitted to the On-Site Contract Monitor. Any subsequent corrective action plans, or any statement regardless of the title or form that states the CONTRACTOR is not compliant with any law, policy or procedure, from these inspections, and a timeline for correction for non-compliance issues (whether found by internal or external agents), will be submitted to the external auditing agency pursuant to their timeline and to the On-Site Contract Monitor. If no timeline is established, the report will be submitted within twenty (20) days.

**3.6.9** Mechanical, electrical, communications and boiler equipment rooms shall be kept clean and free of dust, debris, and cobwebs. Such rooms shall not be utilized for storage of chemical or combustible materials (with the exception of stored air filters in HVAC mechanical rooms). Materials deemed appropriate for storage in these rooms shall be kept at least three (3) feet away from equipment doors or access panels, and this clearance shall be maintained from floor to ceiling.

**3.6.10** Lift station and sewage grinder pump shall be inspected daily and shall be kept free of bulk items (e.g., sanitary items, t-shirts, etc.). Bulk, non-biological waste items shall be removed and properly disposed daily.

### **3.7 Utilities**

CONTRACTOR shall be responsible for the timely payment of all utility bills for the Facility, which shall include but not be limited to, regulated public communications, electricity, gas, waste, water, and sewage. Copies of utility bills shall be made available to the On-Site Contract Monitor upon request.

### **3.8 Maintenance**

CONTRACTOR shall provide a maintenance plan within sixty (60) days after the Service Commencement Date. Acceptance of this plan is at DMS' discretion. This plan shall be reviewed annually by CONTRACTOR and submitted to DMS for review and approval thirty (30) days following the anniversary of the Commencement Date. CONTRACTOR shall maintain the physical structure of the Facility and all tangible personal property contained therein, including Leased Furnishings and Equipment, in accordance with applicable FDC policy and procedure and section 3.9, Major Maintenance and Repair Reserve Fund. CONTRACTOR's obligations include all maintenance related to structural conditions or defects as well as ordinary routine maintenance, while adhering to any manufacturer's recommended preventative maintenance schedule. CONTRACTOR will maintain, preserve and keep the Facility and the Leased Furnishings and Equipment in good repair, working order and condition, subject to normal wear and tear, and will promptly make or cause to be made all necessary and proper repairs, including those identified by self-monitoring, reviews of governing agencies, and DMS' inspections. All such replacements and renewals shall become part of the Facility. It is specifically understood and agreed that CONTRACTOR will develop and implement a preventive and routine maintenance plan and will keep maintenance records in hard copy and electronic format. Copies of inspection reports, maintenance records, and maintenance plans will be provided to the On-Site Contract Monitor and Facility Maintenance Monitor in a report by the 15th of each month. During the term of this Contract, DMS shall have no responsibility, financial or otherwise, with respect to maintenance of the Facility, other than that explicitly provided under section 3.9, Major Maintenance and Repair Reserve Fund. The responsibility for

maintenance of the Facility shall be the sole responsibility of CONTRACTOR except as provided under section 3.9, Major Maintenance and Repair Reserve Fund.

- 3.8.1** The maintenance plan shall include the following:
  - 3.8.1.1** Physical plant equipment preventative maintenance;
  - 3.8.1.2** Structural and building envelope maintenance; and
  - 3.8.1.3** Vehicle preventive maintenance programs.

### **3.9 Major Maintenance and Repair Reserve Fund**

CONTRACTOR shall make and be responsible for all routine and necessary repairs of the Facility, and repairs or replacement of all Facility furnishings, fixtures, and equipment, so long as the cost associated with any maintenance, replacement, or repair is \$5,000 or less (per item, per occurrence). Requests for reimbursement for maintenance or repair costs in excess of \$5,000 shall be submitted to the Bureau Chief and, subject to the receipt of written approval from the Bureau Chief, the costs of such major maintenance or repairs shall be charged to the Major Maintenance and Repair Reserve Fund. DMS may request an analysis of any proposed maintenance or repair request proposed by the CONTRACTOR; the cost of any such analysis will be borne by the CONTRACTOR and are not reimbursable. On the first day of each month, DMS will deduct \$20,833.33 from the monthly invoice payment and transfer said amount to the Major Maintenance and Repair Reserve Fund for the Facility. **Any corrective action items identified in an unannounced Security Audit by FDC will not be covered under this fund.** The Department shall be the owner of such fund, and CONTRACTOR shall have no rights, other than as set forth herein, in such fund or in any fund earnings. CONTRACTOR will follow DMS' Major Maintenance and Repair Reserve Fund policy #08-101 for all requests for reimbursement. CONTRACTOR shall operate the space provided in an energy efficient manner.

### **3.10 Access to the Facility**

The On-Site Contract Monitor, the Contract Manager, all FDC representatives, or other designated representatives from DMS shall have full and immediate access at all times, with or without notice, to inmates and staff and to all areas of the Facility. Other Department employees and State officials on official business (including, but not limited to, OPPAGA, DOH, and CMA), shall have full access to inmates, staff, and all areas of the Facility at all times, with or without notice. Designated Representatives will not be unnecessarily detained at the front gate. CONTRACTOR shall not detain any designated representative(s) for any period of time in excess of the time necessary for parties to comply with existing security processes.

### **3.11 Expansion and Renovation**

Subject to the prior written approval of DMS, which approval shall not unreasonably be withheld, CONTRACTOR shall have the authority to remodel the Facility or make substitutions, alterations, additions, modifications, and improvements to the Facility from time to time. Unless otherwise agreed in writing, all such remodeling, substitutions, alterations, additions, modifications, and improvements shall be paid for by CONTRACTOR, and shall become part of the Facility. Minor alterations may be done at CONTRACTOR's expense without prior approval from DMS. Minor alterations will be defined as alterations costing less than \$25,000. For any work under this section, CONTRACTOR must use, and must document the use of, materials of equal or greater quality than those already in use at the Facility. Such documentation shall be provided to the On-Site Contract Monitor upon request. All alterations shall be documented on the

Facility's inventory as necessary. All work under this section shall adhere to applicable codes, standards, and policies.

### **3.12 Material Damage or Loss**

Promptly after the occurrence of any damage or loss at the Facility that materially affects the continued operation of the Facility, CONTRACTOR shall notify DMS of such loss or damage in accordance with Section 602.012, FDC Policy and Procedures. The Department and CONTRACTOR shall jointly assess the nature and extent of such damage or loss and, as soon as practicable thereafter, determine whether it is practicable and desirable to rebuild, repair, or restore such damage or loss. If the Department and CONTRACTOR determine that such rebuilding, repair or restoration is practicable and desirable, CONTRACTOR shall forthwith proceed with such rebuilding, repair or restoration. Upon completion, such rebuilding, repair or restoration shall thereupon become part of the Facility. In such case, any insurance proceeds received in respect to such damage or loss shall be used for payment of, or reimbursement for, the costs of such rebuilding, repair or restoration. Insurance records, including proceeds and deductibles, shall be provided to the On-Site Contract Monitor upon request. In the event such insurance proceeds are not sufficient to pay in full the costs of such repair, rebuilding, or restoration, CONTRACTOR will be responsible for payments due in excess of insurance proceeds received. If DMS and CONTRACTOR determine, in writing, that damage to the Facility is extensive enough to prevent operation of the Facility and that repair, rebuilding, or restoration is not feasible or practical, and further agree, in writing, not to rebuild, repair or restore the Facility, then this Contract shall automatically terminate, with respect to such Facility, thirty (30) days after the date of such written agreement.

### **3.13 Vehicles**

CONTRACTOR shall purchase and provide all vehicles required for the operation and management of the Facility. All such vehicles shall be owned by CONTRACTOR. CONTRACTOR shall have all vehicles properly insured for comprehensive, collision, property, medical, personal injury, theft, and replacement damages. All maintenance plans and records, preventative maintenance records, repair records, etc. for vehicles shall be provided to the On-Site Contract Monitor on a monthly basis.

## **SECTION 4. Operation of the Facility**

### **4.1 General Duties**

**4.1.1** CONTRACTOR shall provide the operation and management services and shall operate, maintain, and manage the Facility in compliance with applicable federal and state constitutional requirements, laws, court orders, and FDC rules and procedures, whether now in effect or hereafter effected or implemented, and in accordance with the Operations Plan, the terms and conditions contained in the Contract, and any documents referenced therein. CONTRACTOR shall be in compliance with all applicable ACA Standards and requirements for adult correctional institutions, and shall maintain ACA accreditation at the Contractor's own expense. CONTRACTOR must submit a written request for a specific exemption from ACA Standards to the Contract Manager, who may, at his/her sole discretion, grant or deny the request. In the case of a conflict between any of the standards or requirements listed above, the more demanding standard or requirement will control.

**4.1.2** Pursuant to Chapter 957.04(1)(e), Florida Statutes, CONTRACTOR may propose a waiver of a particular FDC rule or procedure that is inconsistent with the mission to establish and maintain cost-effectiveness at the Facility. Such proposals shall be submitted to the Contract Manager, who may, at his/her sole discretion, grant or deny such a waiver in writing to CONTRACTOR. All decisions by the Contract Manager under this section are final and not subject to appeal or challenge by CONTRACTOR in any civil or administrative forum, nor subject to any mediation or arbitration proceedings.

#### **4.2 Fiscal Operations**

CONTRACTOR shall comply with all of the following requirements concerning fiscal operations, including but not limited to, the proper maintenance of accounting records and the periodic report of financial data in accordance with all auditing requirements as generally specified in section 4.3, Maintenance and Operation of Funds, through 4.8, Financial Reporting.

#### **4.3 Maintenance and Operations of Funds**

CONTRACTOR shall maintain its records in accordance with GAAP, in reasonable detail to include, but not be limited to, groups of accounts for Facility operations, health services, substance abuse programs, educational services, food services, security services, maintenance and administration.

#### **4.4 Operation of Inmate Bank**

CONTRACTOR shall maintain Inmate Bank funds separate and apart from other funds and abide by FDC rules, policy, and procedures regarding the same.

#### **4.5 Privately Operated Institutions Inmate Welfare Trust Fund**

**4.5.1** Funds in the Privately Operated Institutions Inmate Welfare Trust Fund (POIIWTF) may be appropriated annually by the Legislature for the benefit and welfare of inmates incarcerated in privately operated correctional facilities. Funds will be distributed in accordance with Exhibit G – POIIWTF Budget Summary, which is inclusive of the following attachments: A. POIIWTF Program Request and Narrative; B. Budget Instructions; and C. Budget Narrative. Services are strictly paid as cost reimbursement. No funds will be paid for services not provided.

**4.5.2** By March 1<sup>st</sup> of each year, CONTRACTOR must submit an application for expenditures to be made from the POIIWTF for the next fiscal year to DMS for review. In accordance with section 944.72(1), Florida Statutes, planned expenditures must cover expenses for the benefit and welfare of inmates at the Facility.

**4.5.3** CONTRACTOR must compile a report that documents the actual receipts and expenditures from this trust fund for the previous fiscal year, beginning July 1<sup>st</sup> and ending June 30<sup>th</sup>, and provide such to DMS. This report is due by July 31<sup>st</sup> each year for the previous fiscal year.

**4.5.4** Expenditures for operational cost and fixed capital outlay made from the POIIWTF must meet the guidelines of section 945.215, Florida Statutes, and applicable terms of this Contract. CONTRACTOR is responsible for contracting and overseeing the construction of fixed capital outlay projects authorized by the

Legislature. All operations and fixed capital outlay projects and expenditures must be approved by DMS.

**4.5.5** CONTRACTOR shall ensure proper accounting and internal control of the receipts and expenditures of the funds from the POIIWTF.

**4.5.6** CONTRACTOR will send to DMS a monthly report by the 15<sup>th</sup> of the month the details of deposits and expenditures to the POIIWTF. This report should include the deposits and expenditures made from the commissary account.

#### **4.6 Inmate Commissary Account and Vending Services**

**4.6.1** Inmates shall have access to a commissary for purchase of goods. CONTRACTOR will provide an inmate commissary and may provide for the placement in the Facility of one (1) or more vending machines for use by the inmate's visitors and/or staff. Items for resale must be priced comparably with like items for retail sale at fair market prices. Items provided on the inmate's canteen menu that are also provided in the visitor and inmate's vending machines will have identical pricing. Receipts for these items must be provided upon request. DMS encourages CONTRACTOR to utilize economies of scale where possible and permissible. Items sold in the commissary may only be those items allowed in rule 33-602.201, Appendix One, Florida Administrative Code, and only in the possession quantities specified therein. Due to frequent transfers of inmates between private and state-run facilities, all items sold (e.g. electronic devices, etc.) must be of similar value and appearance and compatible to those sold in state-run commissaries, in accordance with FDC policies and procedures.

**4.6.2** As required by section 945.215, Florida Statutes, the net proceeds derived from operating inmate canteens, vending machines used primarily by inmates, receipts from telephone commissions, interest earned on the account, and similar sources shall be sent to FDC and deposited monthly in the POIIWTF. CONTRACTOR shall provide a monthly statement to the On-Site Contract Monitor to include all deposits, withdrawals, and interest earned in the account.

**4.6.3** CONTRACTOR shall make expenditures from the Commissary Account, to purchase items for resale in the commissary and for other items in accordance with section 945.215, Florida Statutes. CONTRACTOR shall provide a monthly statement to the On-Site Contract Monitor to include all deposits, withdrawals, and interest earned. For the auditing of the commissary and inmate bank accounts, CONTRACTOR shall develop and update as necessary, with the approval of DMS, administrative procedures to ensure proper accounting and internal control of the receipts and expenditures of the funds from the POIIWTF (Commissary Account) and Inmate Bank Fund. CONTRACTOR shall review such procedures yearly to ensure procedures remain current and timely. Documentation of this review and any recommendations for change shall be submitted to the On-site Contract Monitor yearly. CONTRACTOR shall have an independent audit of the Inmate Bank Fund and POIIWTF (Commissary) fund, conducted on an annual basis (fiscal year), pursuant to GAAP, and the entire results of the audit will be submitted to DMS by October 1<sup>st</sup>.



**4.6.4** The Contractor may, if permissible under Florida law, utilize the Florida Department of Correction (FDC)'s established contracts for revenue generating services including, but not limited to, canteen/commissary, package programs, inmate telephone, vending, and multimedia kiosks/tablets. The Contractor may work with the FDC to implement services from their existing contracts, in coordination with the Department of Management Services. All revenue generated from these services will continue to be deposited in the Privately Operated Institutions Inmate Welfare Trust Fund (POIIWTF).

#### **4.7 Financial Reporting**

**4.7.1** Audited annual financial statement, for the fiscal year of July 1<sup>st</sup> to June 30<sup>th</sup> and each fiscal year thereafter, prepared in accordance with GAAP and clearly distinguishing Inmate Bank and POIIWTF (Commissary) Accounts shall be filed not later than October 1<sup>st</sup> of each year.

**4.7.2** Monthly statements shall also be prepared and delivered as follows:

**4.7.2.1** Inmate Bank Fund: Monthly Inmate Bank fund statements, showing all activity, are due to DMS by the 15<sup>th</sup> of the month, for the previous month.

**4.7.2.2** POIIWTF Commissary Account: Monthly POIIWTF Commissary bank statements, showing all activity, are due to DMS by the 15<sup>th</sup> of the month, for the previous month.

#### **4.8 FDC Forms**

CONTRACTOR will use official FDC forms as provided as an attachment to RFP DMS-17/18-023 Operation and Management of Gadsden Correctional Facility.

#### **4.9 American Correctional Association Accreditation**

CONTRACTOR shall seek, obtain, and maintain ACA Accreditation within a reasonable timeframe as determined by DMS, pursuant to and in accordance with the terms of section 957.04(1)(c), Florida Statutes.

#### **4.10 Operations Plan**

**4.10.1** As a condition precedent to commencement of services hereunder and prior to the Service Commencement Date, CONTRACTOR shall provide DMS, for DMS' written approval, an Operations Plan that covers the full range of Facility operations including, but not limited to, a policy and operations manual that incorporates all FDC rules, policy, procedures, and HSB which shall cover:

**4.10.1.1** All aspects of Facility operations that affect the quality of life of the inmates, employees, and visitors. The following items should be considered when evaluating quality of life within the facility: inmate recreation program; recreation facilities; food quality and inmate food services standards; medical care; sanitation and hygiene practices; inmate exercise; access to mail, telephone, and visitation; staff working conditions; and inmate work assignments;

- 4.10.1.2** Procedures that will be utilized to facilitate monitoring of the Facility by CONTRACTOR's Authorized Representative or the Authorized Representative's designee on an annual basis;
  - 4.10.1.3** Continuous self-monitoring by Facility staff. The On-Site Contract Monitor will be given written copies of self-monitoring reports monthly. It is CONTRACTOR's responsibility to develop the corresponding procedures and forms, and document self-monitoring activities under the Contract;
  - 4.10.1.4** Procedures for assumption of operations by DMS or FDC in the event of CONTRACTOR's bankruptcy or inability to perform its duties hereunder;
  - 4.10.1.5** An emergency procedures/security manual for confidential use by staff supervisors employed by CONTRACTOR;
  - 4.10.1.6** Post orders for all Facility security staff positions in accordance with FDC's policy, procedures and post orders. All post orders must be submitted and approved by the Contract Manager. Post orders will be reviewed yearly by CONTRACTOR. Documentation of this review and any prospective changes to the post orders will be submitted to the On-Site Contract Monitor who will forward the documentation for review and approval, in writing, to the Contract Manager;
  - 4.10.1.7** Job descriptions for each position, including salary range, education and experience requirements, certification/licensure requirements, descriptions of job duties, and full-time or part-time designation. All job descriptions must be submitted to and approved by the Contract Manager. Job descriptions will be reviewed yearly by CONTRACTOR. Documentation of this review and any prospective changes to the job description will be submitted to the On-Site Contract Monitor to provide, in writing, to the Contract Manager for review and approval. Revisions must be approved prior to implementation. Exhibit E - Positions, Job Codes and Salaries of the Operations and Management Contract will include a chart documenting all the positions, job codes and minimum/maximum salaries. Exhibit E must be updated as needed and approved by the Contract Manager in writing. Exhibit E will be the basis of vacancy deduction amounts for invoicing purposes. All job announcements must be accompanied with the corresponding job description approved by the Contract Manager.
- 4.10.2** Finalized building schedule for each building will be submitted to the On-site Contract Monitor. All schedules will be reviewed at least annually by CONTRACTOR. Documentation of this review and any prospective changes must be submitted and approved by the Contract Manager prior to implementation of the change.
- 4.10.3** CONTRACTOR shall notify DMS in writing of desired changes in, or additions to, the Operations Plan with regard to CONTRACTOR's policies and procedures, emergency procedures/security manual, post orders, and job descriptions. No such changes shall be implemented prior to CONTRACTOR's receipt of written

approval from the Contract Manager. The Contract Manager shall respond to a request for changes within thirty (30) days. A material change of the Operations Plan shall be regarded as a material breach of this Contract.

#### **4.11 Classification and Assignment of Inmates**

**4.11.1** CONTRACTOR shall provide a classification program that is in accordance with all applicable standards and FDC procedures. CONTRACTOR shall provide suitable office space at the Facility for one (1) or more FDC classification officers as may be determined by FDC to conduct classification services, subject to DMS' approval. CONTRACTOR may not make any change in an inmate's custody level, but may recommend custody level changes to FDC for approval.

**4.11.2** Beginning on the Service Commencement Date, inmates will be assigned to the Facility by FDC at a rate not to exceed capacity of the Facility in accordance with Exhibit B – Transfer Agreement, and with the following provisions:

**4.11.2.1** The inmates transferred by FDC shall: represent a cross section of the inmate population; have completed the initial classification process at a FDC facility; be accompanied by all initial classification and subsequent reviews and other necessary documentation; be accompanied with a complete medical record, including chest X-ray; and be accompanied by documentation of the amount contained in the inmate's commissary account with the funds to be forwarded by FDC to the Facility within ten (10) days of receipt of the inmate, in compliance with Chapter 33, Florida Administrative Code.

**4.11.2.2** If an inmate does not meet the qualifications or classification level necessary for assignment to the Facility and CONTRACTOR is aware of this before transport to the Facility, CONTRACTOR should provide notice to FDC before transport and request that the transfer be cancelled or diverted. If an inmate is found not to meet the qualifications or classification level necessary for classification to the Facility after transfer to the Facility, CONTRACTOR may request the transfer of unqualified or improperly classified inmates to a FDC facility pursuant to section 4.13, Transfer of Inmates.

**4.11.2.3** CONTRACTOR shall ensure sufficient staff is assigned to conduct FCIC/NCIC background screenings relating to visitation, volunteers, and subcontractors. CONTRACTOR shall ensure the training and certification of this staff. Copies of access requests, training, and certifications will be maintained at the Facility. This access will be used for criminal justice purposes. To comply with Federal Bureau of Investigation (FBI) regulations, the FBI CJIS Security Addendum will be incorporated into the Contract and signed by a third-party criminal justice agency to provide criminal justice oversight.

#### **4.12 Orientation of Inmates**

CONTRACTOR shall conduct an orientation program for newly assigned inmates with the program meeting minimum standards as outlined in Chapter 33-601.100, Florida Administrative Code. CONTRACTOR will provide a copy of the orientation materials and associated forms the inmate is required to sign documenting facility orientation.

CONTRACTOR shall implement any orientation program curriculum changes initiated by FDC. CONTRACTOR shall submit orientation materials to DMS for approval upon service commencement and for approval of any changes.

#### **4.13 Transfer of Inmates**

**4.13.1** In accordance with FDC policy and procedure and the Exhibit B - Transfer Agreement, certain circumstances may require an inmate's transfer out of the Facility. These circumstances include: custody changes resulting from disciplinary infractions or other behavior in the Facility; medical and psychiatric transfers, as initiated by medical staff at the Facility; disciplinary transfers in accordance with CONTRACTOR's disciplinary procedures; emergency transfers that involve extreme circumstances not normally found at the Facility; administrative transfers used in witness protection cases; or to adjust operational capacities.

**4.13.2** CONTRACTOR may be required to transport non-routine transfers such as emergency medical, emergency mental health, court orders, protective management, etc. Non-routine transports will be determined by FDC, by the nature of the request or its urgency. FDC shall have the final decision-making authority relating to non-routine transports.

**4.13.3** CONTRACTOR may request, in writing, that an inmate be transferred from the Facility in accordance with FDC policy and procedure and the Exhibit B - Transfer Agreement. The Department, CONTRACTOR, and FDC shall comply with the terms of a Transfer Agreement when transferring inmates between a correctional facility operated by FDC and a private correctional facility. Exhibit B - The Transfer Agreement will be executed in conjunction with the execution of this Contract.

#### **4.14 Release of Inmates**

CONTRACTOR will release inmates in compliance with FDC's rules and procedures pertaining to release as found in the requirements of Rules 33-601.501-503, Florida Administrative Code, which establishes the procedure to be followed in providing a discharge gratuity and travel to eligible inmates upon their release. CONTRACTOR shall follow Rules 33-604.501-503, Florida Administrative Code, and make payment from its fund to eligible inmates. DMS, and/or FDC shall not reimburse CONTRACTOR for discharge gratuity payments made. The funds for this should be incorporated into the Per Diem Rate. A monthly report to include the inmate released and the correspondent receipts for the discharge gratuity and travel payments shall be submitted to the On-Site Contract Monitor.

#### **4.15 Transportation of Inmates**

CONTRACTOR shall not be responsible for inmate transportation from FDC to the Facility or from the Facility to the inmate's destination upon transfer except as provided for in section 4.13.2. CONTRACTOR will be responsible for transporting inmates to the hospital or outside medical appointments, and will be responsible for discharge transportation in compliance with Rule 33-601.503, Florida Administrative Code, "Discharge Transportation".

#### **4.16 Inmate Discipline**

CONTRACTOR will administer the system of inmate rules and disciplinary procedures in compliance with FDC policy and procedures, Florida Statutes, and the Florida

Administrative Code. Rules of Prohibitive Conduct and Penalties for Infractions are to be consistent with those imposed by FDC.

#### **4.17 Inmate Visitation**

**4.17.1** CONTRACTOR shall provide all space, furniture, equipment, and supervision necessary to implement a visitation program, in compliance with the Florida Administrative Code, and FDC policy and procedure. Contact visitation will be provided as determined by an inmate's custody level and disciplinary status.

**4.17.2** CONTRACTOR will provide space, equipment and supervision necessary for inmate visiting with children.

**4.17.3** FDC has implemented an enhanced version of the Facility Access Secure Tracking (FAST) application statewide to control visitation to institutions. FAST uses hand geometry biometrics, photos and data to ensure proper visitor credentials. It consists of two (2) hand readers, a camera and a computer. CONTRACTOR shall implement and use the FAST system and will be responsible for all costs associated with it.

#### **4.18 Inmate Drug Testing**

CONTRACTOR shall conduct a random drug-testing program consistent with FDC's policy and procedures. FDC will provide a monthly list of inmates to be drug tested. The list will be randomly generated. Monthly reports must be submitted to the On-Site Contract Monitor regarding the testing results. Results will also be sent to FDC within three days of receiving the test results.

#### **4.19 Inmate Mail and Telephone**

**4.19.1** CONTRACTOR will provide mail services in compliance with FDC policy and procedure, Florida Statutes and Florida Administrative Code.

**4.19.2** CONTRACTOR will provide telephone services and rates identical to those provided at FDC institutions. As required by section 945.215, Florida Statutes, net receipts from telephone commissions shall be sent to FDC and deposited monthly in the POIWTF. The telephone service provider for the Facility shall be responsible for the repair and maintenance of any equipment it installs. However, CONTRACTOR shall take all reasonable precautions to prevent damage to the equipment. CONTRACTOR will provide computer hardware for administration of the inmate telephone system. The telephone system must allow for remote access to monitor inmates' telephone calls, including remote access by FDC's Inspector General. CONTRACTOR shall comply with all state, federal and local laws, including FDC's rules, policies and procedures regarding inmate access to telephones found in chapter 33, Florida Administrative Code.

**4.19.3** CONTRACTOR shall verify that: contracted telephone companies accurately record and report all telephone calls made by inmates incarcerated in the Facility; persons who accept collect calls from inmates are charged the contracted rate; and the funds are deposited into the commissary account and transmitted monthly into the POIWTF.

**4.19.4** The Contractor may, if permissible under Florida law, utilize the Florida Department of Correction (FDC)'s established contracts for revenue generating services including, but not limited to, canteen/commissary, package programs, inmate telephone, vending, and multimedia kiosks/tablets. The Contractor may work with the FDC to implement services from their existing contracts, in coordination with the Department of Management Services. All revenue generated from these services will continue to be deposited in the Privately Operated Institutions Inmate Welfare Trust Fund (POIIWTF).

**4.20 Use of Force**

CONTRACTOR will administer use of force in compliance with FDC policy and procedure, Florida Statutes, and the Florida Administrative Code.

**4.21 Inmate Personal Property**

CONTRACTOR shall manage inmate personal property in compliance with FDC policy and procedure, Florida Statutes and Florida Administrative Codes. A monthly report shall be submitted to the On-Site Contract Monitor regarding the property disposed of in compliance with the policy.

**4.22 Inmate Grievance Procedure**

CONTRACTOR will follow all FDC rules and procedures for inmate grievances, chapter 33-103 Inmate Grievance Procedure. CONTRACTOR shall adhere to and utilize FDC's inmate grievance system. CONTRACTOR will implement any changes to the inmate grievance system initiated by FDC. Monthly reports must be submitted to DMS regarding all inmate grievances no later than the twentieth (20<sup>th</sup>) day of the following month.

**4.23 Sentence Computation**

CONTRACTOR shall provide FDC with data and information relating to sentence computation. The decision with respect to sentence computation rests solely with FDC. CONTRACTOR shall forward any court ordered sentence modifications (received via any source) to the FDC, Bureau of Sentence Structure and Population Management upon receipt.

**4.24 Gain Time, Change of Custody, and Furloughs**

CONTRACTOR will provide specific information to FDC regarding the award or forfeiture of gain time, change of custody, or granting furloughs. The decision for such rests solely with FDC.

**4.25 Cooperation with the Inspector General**

Pursuant to section 20.055(5), Florida Statutes, CONTRACTOR and any subcontractors understand and will comply with their duty to cooperate with the Inspectors General of FDC and DMS in any investigation, audit, inspection, review, or hearing.

**4.26 Rights, Duties, and Responsibilities Related to FDC's office of the Inspector General, Access, Cooperation, Investigation, Audit, Review, or Inspection**

**4.26.1** CONTRACTOR shall permit full and immediate access to FDC's Office of the Inspector General (OIG) at all times, with or without notice, to all inmates, staff, volunteers, physical areas of the correctional facility, and any conveyance that transports inmates.

- 4.26.2** CONTRACTOR shall permit the OIG to consult and confer with any inmate, staff, or volunteer privately and without molestation. CONTRACTOR shall refrain from taking any retaliatory action against any inmate, staff, or volunteer as a result of the inmate, staff, or volunteer's consultation or conference with the OIG.
- 4.26.3** CONTRACTOR shall permit online and onsite visits by the OIG during any administrative or criminal investigation, audit, review, or inspection conducted by the OIG or by the OIG in conjunction with any local, state, or federal law enforcement agency or authority. Online and onsite access includes, but is not limited to, physical and virtual access to any and all mainframes, servers, clients, network devices, cloud data storage, intrusion prevention systems, and external and internal security scans of these resources.
- 4.26.4** CONTRACTOR shall provide to the OIG any and all operating system logs generated by mainframes, servers, clients, cloud data storage, and network devices, as requested.
- 4.26.5** CONTRACTOR shall direct all staff and volunteers to fully cooperate with the OIG in the process of an audit, investigation, review, or inspection. CONTRACTOR shall facilitate full cooperation from all contractors, subcontractors, independent contractors, and vendors with the OIG in the process of an audit, investigation, review, or inspection.
- 4.26.6** CONTRACTOR shall inform, in writing, the OIG of the name and location and assignment of any employee or volunteer arrested, charged, or indicted for a criminal offense no later than forty-eight (48) business hours after the arrest, charge, or indictment. CONTRACTOR shall inform, in writing, the OIG if the arrested, charged, or indicted employee is also employed with FDC or any other local, state, or federal law enforcement or correctional agency.
- 4.26.7** When an allegation pursuant to a violation of law, rule, or procedure is sustained as a result of an OIG investigation, the disciplining authority, regardless of the disciplinary decision, will report the corrective action or disposition on the DC1-811 to the OIG no later than thirty (30) days after receipt, unless an extension is authorized by the Inspector General or her/his designee.
- 4.26.8** CONTRACTOR shall adhere to all applicable provisions of FDC Procedure 108.003: Investigative Process.
- 4.26.9** CONTRACTOR shall make sufficient office space available for use by the OIG that allows for confidential business to be conducted. CONTRACTOR shall provide necessary support related to the office space, including, but not limited to, computer, telephone, and internet access. CONTRACTOR shall ensure that any office space dedicated to the OIG is secure and unable to be accessed or occupied by any inmate or staff member without prior permission of the OIG.

#### **4.27 Security**

- 4.27.1** Execution of MOA. CONTRACTOR shall execute Exhibit D - Memorandum of Agreement (MOA) (Attachment D to RFP DMS-17/18-023) for emergency response assistance by FDC. Training costs and response costs incurred by FDC will be reimbursed by CONTRACTOR, as stated in the MOA.

- 4.27.2 Security Services:** CONTRACTOR shall provide security services designed for preventing escapes, maintaining order, providing care, custody, control, and managing the inmate population. All security services and operations must be in accordance with FDC's Security procedures, unless otherwise waived pursuant to section 957.04(e), Florida Statutes.
- 4.27.3 Body Alarms:** CONTRACTOR shall provide body alarms pursuant to FDC policy and procedures.
- 4.27.4 Emergency Plans:** CONTRACTOR shall establish and provide to DMS, within ninety (90) days of the Service Commencement Date, final detailed emergency plans in accordance with FDC policy and procedure and addressing the items enumerated below. Plans will be provided to DMS for review and approval and shall be updated annually in consultation with FDC's Bureau of Security Operations. The emergency plans shall at a minimum address the following:
- 4.27.4.1 Assault from Outside or Terrorist Activities**
  - 4.27.4.2 Bomb Threat**
  - 4.27.4.3 Escape**
  - 4.27.4.4 Evacuation**
  - 4.27.4.5 Fire**
  - 4.27.4.6 Hostage**
  - 4.27.4.7 Riot or Disorder**
  - 4.27.4.8 Hazardous Material**
  - 4.27.4.9 Medical Emergencies or Epidemics**
  - 4.27.4.10 Employee Strike Plan**
  - 4.27.4.11 Natural Disaster**
  - 4.27.4.12 Coordination with Local Agencies and FDC for Emergency Assistance**
- 4.27.5 Emergency Squads**  
CONTRACTOR shall establish and maintain emergency squads in accordance with FDC policy and procedure to appropriately address any facility or staff disturbance. CONTRACTOR's emergency plan will include details on how the emergency squads will be deployed, what their individual responsibilities will be, what the line of authority will be, and the required training they will receive. CONTRACTOR's emergency squads may be augmented by FDC Emergency Teams as defined in Exhibit D - Memorandum of Agreement.
- 4.27.6 Security Staff Utilization**  
CONTRACTOR shall develop and implement security staff utilization in accordance with FDC policy and procedure that includes, but is not limited to the following:
- 4.27.6.1** A table of organization for the security staff for the maximum inmate population for the Facility, and the position qualifications, job descriptions, pay levels, number of persons per post, distribution by shift, and security staff to inmate ratio in each housing unit and by shift.
  - 4.27.6.2** A detailed Security Post Chart outlining how key functions/duties will be staffed.



- 4.27.6.3** Procedures for handling medical escort and transfer for outpatient and in-patient treatment, providing coverage for inmates who are in-patients at hospitals, and handling the responsibility of transporting or transferring inmates to other facilities, and such procedures must be submitted and approved by the Contract Manager prior to the Service Commencement Date. These assignments are to be reflected and identified on the Security Post Chart consistent with FDC rules, policy, and procedures.
  - 4.27.6.4** A recap of the Security Post Chart by total number of staff, shall include rank, number of days each post is covered, and corresponding relief.
  - 4.27.6.5** A detailed explanation and written example of how the relief factors for posts are calculated and arrived at to generate the total number of security positions.
  - 4.27.6.6** A detailed explanation of the use of any part-time staff positions and their deployment shall be detailed on the Security Post Chart. The use of part-time correctional officers shall be limited to a maximum of 32 hours per officer per week, for a total not to exceed 1440 hours per week for the Facility. The use of part-time staff in management positions is forbidden. The Department reserves the right to authorize exceptions to this section. Full-time correctional officers shall each be limited to no more than 32 hours of overtime in any two-week period. The Department reserves the right to authorize exceptions to this section.
  - 4.27.6.7** Post Orders detailing and indicating the key duties and responsibilities for each security post/function identified on the Security Post Chart.
  - 4.27.6.8** Exhibit D - Staffing Pattern that clearly identifies the Security Staffing Levels pursuant to FDC Procedure 602.030.
- 4.27.7** CONTRACTOR shall attempt to maintain all staffing levels in accordance with the staffing pattern using over-time in accordance with section 4.27.6.6, above. CONTRACTOR shall reference FDC procedure 602.030 for security staff utilization and staffing security levels in accordance with the daily and long-term normal operations.

#### **4.28 Radio Systems**

CONTRACTOR shall ensure that all radio systems are licensed and maintained in accordance with the Federal Communications Commission (FCC) regulations. Additionally, the CONTRACTOR shall repair and replace portable radios, mobiles, base stations, and repeaters in accordance with section 3.8, Maintenance, which shall be in accordance with FDC policy and procedure, and ACA standards. CONTRACTOR shall have radio equipment compatible with the Florida State Law Enforcement Radio System (SLERS), and is responsible for all costs of purchasing and maintaining the radios.

#### **4.29 Food Service**

CONTRACTOR will provide a food service program in compliance with the ACA Standards, and section 957.04 (l)(f), Florida Statutes. CONTRACTOR is responsible for a variety of services, including a diet at least equal to those provided by FDC in comparable facilities. If the CONTRACTOR desires to use an alternative menu to FDC master menu, it shall be submitted to the Contract Manager, in writing, as part of the CONTRACTOR's Operations Plan. This menu, and any subsequent menu alterations or variances, shall be approved, in writing, by the Contract Manager at DMS' discretion.

**4.29.1** CONTRACTOR shall provide all food, staffing and supervision of preparation for the total delivery of food service at the Facility. CONTRACTOR shall provide a full-service kitchen with separate dining areas for inmates and staff.

**4.29.1.1** Master Menu

**4.29.1.1.1** FDC has developed, and has in place, a Master Menu that shall be followed by CONTRACTOR to ensure inmates housed in the Facility receive the same caloric and dietary requirements.

**4.29.1.1.2** CONTRACTOR shall make provisions for providing sack lunches for inmate work crews in compliance with the applicable FDC rules or procedures.

**4.29.2** Delivery of Food

**4.29.2.1** General Population: The delivery of food for the general population inmates may be provided in cafeteria style in the Facility's inmate dining room or by satellite seating. Alternate methods may be proposed by CONTRACTOR subject to written approval by DMS. This will include blind feeding, where the inmate serving the food is not able to see the inmate receiving the tray.

**4.29.2.2** Staff/Employees/Official Visitors: The same food prepared for the inmate population will be served to staff, employees and official visitors. This requirement does not apply to inmate visitation participants.

**4.29.2.3** Confinement/Infirmary: Inmates who are housed in confinement or infirmaries shall be fed in the confinement units or infirmary, whichever is appropriate.

**4.29.3** Therapeutic Diets: CONTRACTOR shall prepare all therapeutic diets in accordance with Florida Administrative Code, and FDC policy and procedure. CONTRACTOR shall provide the On-Site Contract Monitor with a monthly report of all inmates at the facility receiving a therapeutic diet. Additional documentation may be required upon review of the monthly report.

**4.29.4** Religious Diets/Alternate Entrée: CONTRACTOR shall approve and facilitate religious diets in accordance with Florida Administrative Code, and FDC policy and procedure. CONTRACTOR shall provide the On-Site Contract Monitor with a monthly report that details all inmates at the Facility receiving an alternate entrée. Additional documentation may be required upon review of the monthly report.

- 4.29.5** Records must be maintained indicating daily menus and number of meals served. Substitutions to the pre-approved menus must be clearly documented and CONTRACTOR must ensure that substitutions made are of equivalent nutritional and caloric value to the original item. These records may be reviewed by the On-Site Contract Monitor at his/her discretion.
- 4.29.6** CONTRACTOR shall prepare for delivery of food in case of an emergency (examples: non-delivery of food, riots, natural disasters, man-made disasters, strikes, equipment failure) pursuant to FDC policy and procedure, Florida Statutes and the Florida Administrative Code. CONTRACTOR shall provide sanitation and rodent control which includes all kitchen/dining space, appliances, supplies, and equipment in accordance with the Florida Administrative Code, and FDC policy and procedure.
- 4.29.7** CONTRACTOR shall develop a preventive maintenance schedule, which shall be subject to DMS' review and approval, for the food service equipment, as applicable. All tools, knives, and utensils must be locked in a controlled environment, inventoried, and signed in and out in accordance with FDC policy and procedure, and section 3.8, Maintenance.
- 4.29.8** All foods and/or condiments of a high security risk shall be locked in a controlled environment in accordance with FDC policy and procedure.

#### **4.30 Health Care Services**

- 4.30.1** CONTRACTOR shall provide comprehensive and medically necessary medical, dental, and mental healthcare services with related pharmacy services (including provision of pharmaceuticals) on a non-capitated basis to inmates in the Facility in compliance with FDC policy and procedures, HSB, Florida Statutes, and the Florida Administrative Code. No deviations from the minimum service requirements shall be permitted. CONTRACTOR must follow the most current version of FDC terminology, policy and procedures, and health services bulletins. FDC's Office of Health Services (OHS) will be provided an opportunity to comment and suggest recommended changes to CONTRACTOR'S Health Care Services Plan. The Contractor is responsible for all health costs required in section 4.30, Health Care Services. The Contractor shall be responsible for ensuring that all health services delivered in accordance with section 4.30, Health Care Services of this Contract shall be done pursuant to the laws of the State in which the services are delivered, and all applicable FDC policies and procedures, HSB, ACA Standards, and applicable federal laws.
- 4.30.2** CONTRACTOR is required to provide comprehensive healthcare service coverage twenty-four (24) hours a day seven (7) days a week at the Facility. CONTRACTOR is responsible for the provision of and costs for medical linens, infirmary mattresses and other infirmary supplies (if applicable), and emergency room supplies, and both urgent and emergency medical transportation. Medical linens include sheets, pillowcases, cotton blankets, draw sheets, cloth bed pads, patient pajamas and/or gowns, turning pads, towels and wash cloths. Infirmary mattresses and pillows typically have vinyl or plastic covers, and SOS mattresses are normally made from heavy-duty plastic or vinyl, which is seamless and

resistant to being torn into strips. Inmate housing unit mattresses and pillows are not considered medical linens, infirmary mattresses, or infirmary supplies.

**4.30.3** Pursuant to section 945.6031(2), Florida Statutes, the Facility shall be subject to comprehensive surveys by the CMA of the dental, physical, and mental health care systems at least triennially (once every three years). CONTRACTOR shall designate a CHO, as defined in a HSB, for the Facility who shall submit reports to FDC (and the Assistant Secretary of the Office of Health Services, as required) for all clinical matters.

**4.30.4** CONTRACTOR will provide medical, dental, and mental health services in compliance with Florida Statutes, Florida Administrative Code, and FDC policy and procedure, and FDC health service bulletins that include the following:

**4.30.4.1** Dental/Substance Abuse/Physical/Mental Health Services: CONTRACTOR shall provide all healthcare treatment and services in accordance with all applicable federal and state laws, rules and regulations, FDC rules, policy and procedures, and HSB applicable to the delivery of healthcare services in a correctional setting. In addition, CONTRACTOR shall meet all state and federal constitutional requirements, court orders, and applicable ACA Standards for correctional healthcare (whether mandatory or non-mandatory). All such laws, rules and regulations, current and/or as revised, are incorporated herein by reference and made a part of this Contract. CONTRACTOR, FDC, and DMS shall work cooperatively to ensure service delivery in complete compliance with all such requirements. CONTRACTOR shall stand in the place of FDC for purposes of the referenced statutes, rules and regulations.

#### **4.30.5 Inpatient Hospitalization**

**4.30.5.1** If, in the opinion of the on-site Chief Health Officer (CHO), an inmate cannot be properly treated in the facility, the CHO shall refer the inmate to a medical facility that can provide the necessary treatment. CONTRACTOR shall be responsible for payment of all inpatient hospitalization costs.

**4.30.5.2** CONTRACTOR shall be responsible for providing security for any inmate admitted to a hospital. CONTRACTOR shall notify DMS and FDC within two (2) hours of an inmate's admission to a hospital. To assist CONTRACTOR in minimizing security costs, CONTRACTOR may utilize services in accordance with FDC procedure 401.005 relating to utilization management, available at FDC's Reception and Medical Center (RMC) hospital in Lake Butler, Florida, in all appropriate cases contingent upon space availability.

**4.30.5.3** All hospitals utilized by CONTRACTOR in the State of Florida for the care of inmates shall be fully licensed, and licensed by the Agency for Health Care Administration (AHCA), under the provisions of Chapter 395, Part I, Florida Statutes and Chapter 408, Part II, Florida Statutes.

- 4.30.5.4** CONTRACTOR shall utilize hospitals with a secure prison ward or provide sufficient security in accordance with FDC policy and procedures addressing security coverage and requirements to ensure the safety of hospital staff and the public.
- 4.30.6** CONTRACTOR shall comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (Public Law 104-191) and all applicable regulations promulgated hereunder.
- 4.30.7** CONTRACTOR shall provide, maintain, and utilize appropriate health space, fixtures and other items for CONTRACTOR's use to ensure the efficient operation of the Contract. CONTRACTOR shall also provide or arrange for waste disposal services, including medical waste disposal.
- 4.30.8** All supplies required to provide healthcare services shall be provided by CONTRACTOR. The term "healthcare supplies" is defined as all healthcare equipment and commodity items with a unit cost of less than one thousand dollars (\$1,000). CONTRACTOR will have at least a thirty (30) day supply of healthcare supplies upon its assumption of responsibility for service implementation at the Facility. A physical inventory of all equipment and medical supplies will also be conducted upon the expiration or termination of this Contract with appropriate credit payable to CONTRACTOR, in the event DMS chooses to purchase the existing supplies.
- 4.30.9** CONTRACTOR shall utilize FDC forms as specified to carry out the provisions of this Contract.
- 4.30.10** Medical Services: CONTRACTOR shall be responsible for the following: all inmate medical costs for care provided at the Facility, to include emergency outpatient care, pharmaceutical services, initial intake screening for medical, dental, and mental health pre-existing conditions, substance abuse treatment, medically required eyeglasses, hearing aids, and dentures; regularly scheduled chronic illness clinics conducted under the direct supervision of the CHO for the following conditions: diabetes; respiratory; cardiovascular; seizure disorder; tuberculosis preventive therapy; general medicine; immunodeficiency; and hepatitis C; an infectious disease education program for inmates which will be consistent with FDC's existing health education program for HIV and AIDS as described in section 945.35, Florida Statutes. CONTRACTOR must follow requirements outlined in section 945.355, Florida Statutes. All medical contacts shall be documented on the Offender Based Information System. The On-Site Contract Monitor may request a report documenting all medical contacts. The potential percentage of each medical and psychological grade and the percentage of inmates with special needs are outlined in Exhibit B - Transfer Agreement.
- 4.30.11** Inmate Co-Payment. CONTRACTOR shall be responsible for collecting a medical co-payment for each inmate-initiated, non-emergency visit to a health care provider as required by section 945.6037, Florida Statutes. The fees collected will be retained by CONTRACTOR and the same amount will be deducted from the monthly management payment billing submitted by CONTRACTOR to DMS. All co-payments must be noted in the OBIS and

accounted for in the medical record. A report of co-payments will be included with the monthly invoice. CONTRACTORS must include the cost of providing health care in their Per Diem Rate. This report shall not include any Personal Health Information (PHI) as defined under the US Health Insurance Portability and Accountability Act (HIPAA). This shall not include the revenue generated by the inmate co-payment.

**4.30.12 Chief Health Officer:** CONTRACTOR shall designate a CHO for the Facility who shall submit reports to FDC (and the Assistant Secretary of the Office of Health Services, as required) for all clinical matters. The CHO shall serve as the medical authority and shall work as a team with CONTRACTOR's administrative and clinical managers. Each CHO shall operate the clinical healthcare program in accordance with the standards set forth in this Contract, and all applicable State and Federal Laws, rules and regulations, FDC rules, policies and procedures, and HSBs. The CHO shall plan, implement, direct and control all clinical aspects of the institutional healthcare program and shall have direct oversight, and shall monitor the performance of all healthcare personnel rendering direct patient care. The CHO shall also provide primary healthcare services on a routine basis and meet the same standards as other CHOs in FDC. In addition, the person occupying this position must be licensed to practice medicine under Florida Statute Chapters 458 or 459 in the State of Florida "in good standing," hold a current DEA Registration Number, and must have credentials that meet or exceed the requirements of Florida Law.

**4.30.13 Health Education Program:** CONTRACTOR shall implement, subject to Department approval, an inmate health education program in accordance with the HSB.

**4.30.13.1** CONTRACTOR shall implement an infectious disease education program for inmates in accordance with FDC's existing health education program for HIV and AIDS as described in section 945.35, Florida Statutes, FDC policy and procedures, and HSB.

**4.30.14 Quality Management:** CONTRACTOR shall establish and maintain a Clinical Quality Management program that maintains full compliance with FDC's rules, policy and procedures, and HSB.

**4.30.15 Health Assessment at Intake:** CONTRACTOR shall provide a comprehensive health assessment and orientation in accordance with FDC's policy, procedures, and health service bulletins for each inmate assigned to the facility.

**4.30.16 Referrals:** CONTRACTOR shall be financially responsible for all costs associated with the care of an inmate treated outside of the Facility.

**4.30.17 Staffing of Health Care Professionals:**

**4.30.17.1.1** CONTRACTOR shall have direct oversight, be responsible for and monitor the performance of all healthcare staff, whether providing direct healthcare or performing other duties in support of the Contract.

- 4.30.17.1.2** CONTRACTOR shall maintain staffing for provision of the services outlined herein, set forth in Exhibit D and shall ensure that staff providing services is appropriately trained and qualified and licensed, as appropriate. Staff shall provide professional healthcare coverage twenty-four (24) hours a day, seven (7) days a week for the institution.
- 4.30.17.1.3** CONTRACTOR shall maintain personnel files on all employees to include contract employees in the healthcare unit of the institution. The records shall be made available to the On-Site Contract Monitor, and FDC's Assistant Secretary of the Office of Health Services or designee. These files shall include, but not be limited to, copies of current Florida licenses or proof of professional certification, and evaluation records and position responsibilities.
- 4.30.17.1.4** CONTRACTOR shall employ only those persons having appropriate Florida licensure and certification and in good standing with the respective licensing or certifying entities. Individuals in positions that require credentials (including, but not limited to, Physicians, Advanced Registered Nurse Practitioners (ARNPs) Psychologists, and Psychological Specialists), will be subject to a credentials review by DMS to ensure that the individual has the requisite training, experience and licensure or certification necessary to perform the duties assigned. The credentials process must meet or exceed the requirements of Florida Law. It is CONTRACTOR's responsibility to ascertain and comply with all state licensing and credentialing requirements. CONTRACTOR shall provide a certification statement on each individual to the Assistant Secretary of FDC, Office of Health Services certifying that the credentials of each individual have been reviewed and he/she is certified as qualified to perform the duties assigned. CONTRACTOR will provide a quarterly report listing all CONTRACTOR-employed, and sub-contracted credentialed health providers to the On-Site Contract Monitor. This report will include the provider name, health care license type and status, job title, privileges granted, credentialing status, date started at the Facility, and date no longer working at a Facility if CONTRACTOR terminated employment during the reporting period.

**4.30.17.2 Medical Records:**

- 4.30.17.2.1** CONTRACTOR shall ensure that all healthcare unit staff documents each healthcare encounter in accordance with FDC's rules, (Chapters 33-6, 33-19, Florida Administrative Code), policy and procedure, HSB, and Florida Statutes.
- 4.30.17.2.2** CONTRACTOR shall ensure that each medical record, including FDC Form Medication Administration Record, is complete, accurate, and contains sufficient documentation to warrant the treatment rendered and that each entry is made in a timely manner in accordance with FDC rules,

policy and procedure, and HSB. This shall include requesting, and documenting the request, for all available previous medical records, and composing a medical history.

**4.30.17.2.3** CONTRACTOR shall ensure that all medical record procedures concerning confidentiality are followed. Medical records shall remain the property of FDC and information contained in a medical record shall not be released to anyone who is not legally authorized to receive it.

**4.30.17.2.4** CONTRACTOR shall ensure that each medical record complies with the Florida Statutes, FDC rules, policy and procedure, HSB, HIPAA, and other applicable laws and rules.

**4.30.17.2.5** CONTRACTOR shall ensure that all logs required in medical areas are maintained in a complete, current, and accurate condition in accordance with FDC policy and procedure, and HSB. CONTRACTOR shall ensure that the weekly and monthly validations as evidenced by signatures by the CHO or CONTRACTOR's Designee on the logs are performed prior to the fifth (5<sup>th</sup>) day of the following month.

**4.30.17.3** Other General Health Service Requirements:

**4.30.17.3.1** Routine transportation of inmates for medical visits, consultations, diagnostic studies, and hospital admissions shall be the responsibility of the CONTRACTOR.

**4.30.17.3.2** CONTRACTOR'S personnel shall establish regular meetings with representatives from any hospital or medical provider which the Contractor has developed a business agreement that may provide treatment to Inmates of this facility, to coordinate the referral of inmates. Referral methods, scheduling, transportation, reporting of test results, medical records, acute care hospitalization, and patient follow up will be in accordance with FDC policy, procedure, and HSB.

**4.31 Physical Health Services**

**4.31.1** Chronic Illness Clinics:

**4.31.1.1** Access to specialty care shall be provided through regularly scheduled chronic illness clinics and other specialty clinics as necessary, and conducted under the direct supervision of the CHO as required by FDC HS B15.03.05, Chronic Illness Clinic.



**4.31.2 Sick Calls:** CONTRACTOR will provide sick calls, as defined in FDC Policy, in compliance FDC policy and procedure and HSB.

**4.31.3 Emergency Care Services:**

**4.31.3.1** CONTRACTOR shall take inmates in need of emergency care services to the nearest hospital able to provide emergency care. If an inmate needs to be transferred by air, CONTRACTOR shall use appropriate aviation assets. All ambulances utilized shall be equipped with life support systems and shall be operated by personnel trained in life support that are currently certified by the State of Florida. CONTRACTOR shall obtain documentation of State certification and keep it on file at the Facility. CONTRACTOR shall be responsible for the cost of all emergency air ambulance or land ambulance transportation.

**4.31.3.2** The following service requirements shall be met to ensure that qualified emergency treatment is provided in accordance with FDC rules, policy, procedure, and HSB:

**4.31.3.2.1** In-service education on first aid and emergency procedures, as required by section 6, Training.

**4.31.3.2.2** Written policies and procedures concerning emergency transfer and transportation of inmates.

**4.31.3.2.3** Arrangements for emergency 24-hour on-call physician coverage.

**4.31.3.2.4** Coordination with security for arrangements when the emergency transfer of an inmate is indicated.

**4.31.3.2.5** Cardiopulmonary Resuscitation (CPR) Basic Training for all Health Services staff and other designated departmental staff members.

**4.31.4 HIV Testing.** CONTRACTOR shall provide testing for HIV infection in accordance with Florida Statute, FDC rules, policy, procedures, and HSB under the following conditions:

**4.31.4.1** Upon request by the inmate;

**4.31.4.2** When there is evidence that an inmate, while at the Facility, has engaged in high-risk behavior for transmitting or contracting HIV, as established in section 945.35, Florida Statutes;

**4.31.4.3** If the inmate has a positive tuberculosis (TB) skin test or active TB; or

**4.31.4.4** Any other condition deemed medically necessary by the appropriate medical practitioner, as determined by HSB.

**4.31.5 Infection Control Program.** CONTRACTOR shall provide for an Infection Control Program at the Facility pursuant to FDC policy and procedure, and HSB.

**4.31.6 Special Medical Programs.** CONTRACTOR shall provide a special medical program for inmates who require close medical supervision including chronic and convalescent care pursuant to FDC policy and procedure, and HSB.

#### **4.31.7 Optical Services**

**4.31.7.1** CONTRACTOR shall provide for optical services, including eye examinations performed on-site and in accordance DC policy, procedure, and HSB. Eyeglasses shall be provided at the inmate's expense unless clinically mandated by an appropriately licensed ophthalmologist, in which case CONTRACTOR shall be financially responsible. Eyeglasses shall be obtained by CONTRACTOR through Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).

**4.31.7.2** Ophthalmic prosthetics clinically mandated by an Ophthalmologist and services (including prosthetics) necessary to the continued provision of needed healthcare for the inmate shall be the responsibility of CONTRACTOR. Non-clinically mandated ophthalmic prosthetics may be provided at the inmate's expense.

#### **4.31.8 Dental Health Services**

**4.31.8.1** CONTRACTOR will provide inmate dental health services pursuant to the DC's Dental Care Manual, Florida Statutes, American Dental Association Dental Standards, Florida Board of Dentistry, Occupational Safety and Health Administration General Duty Clause, and FDC policy and procedure, and HSB.

**4.31.8.2** If applicable, all dental prosthetics shall be provided by CONTRACTOR through PRIDE.

**4.31.8.3** Clinical oversight of the Facility's dentists shall be provided by FDC's Office of Health Services' Director of Dentistry. CONTRACTOR's provision of dental services shall include the following components:

**4.31.8.3.1** Initial intake screening within five (5) workdays of arrival;

**4.31.8.3.2** Development of a dental treatment plan that includes;

**4.31.8.3.3** Prioritization of needs;

**4.31.8.3.4** Counseling on oral hygiene;

**4.31.8.3.5** Fillings, cleaning, and prosthesis; and

**4.31.8.3.6** Dentistry based on preventive care and complaint-oriented care.

**4.31.9 MENTAL HEALTH SERVICES:** CONTRACTOR shall provide for comprehensive mental healthcare services at the Facility in compliance with Florida Statutes, FDC policy and procedure, Florida Administrative Codes, and HSB.

- 4.31.9.1** CONTRACTOR will use FDC's information system, presently the OBIS, to collect, store, and report on daily mental healthcare operations. This includes, but is not limited to, entering data, monitoring reports and screens, and auditing data for accuracy to keep the OBIS – Health Services (HS) component current, plus any other FDC system or component developed for Health Services or any FDC system or component deemed necessary for Health Services operations. Updates in OBIS shall be entered and completed within five (5) business days of any encounter.
- 4.31.9.2** CONTRACTOR will make appropriate personnel available for training in FDC's Office Health Services' component of the OBIS-HS. Training will be provided by FDC and will be conducted at a site designated by FDC. Personnel required to attend include the Data Entry Operators and any personnel entering or assessing data in the OBIS-HS system. CONTRACTOR is responsible for payment of travel expenses for its employees. CONTRACTOR shall ensure that all applicable employees complete this training within the first ninety (90) days of the Service Commencement Date of the Contract. Arrangements for the training of new employees, as applicable, will be the responsibility of CONTRACTOR and may be arranged with assistance from DMS. Failure of CONTRACTOR to provide sufficient personnel for training is not an acceptable reason for not maintaining OBIS information. CONTRACTOR will insure OBIS is utilized and maintained per HSB 15.06.04.
- 4.31.9.3** CONTRACTOR shall comply with applicable continuing requirements as determined by FDC's Deputy Assistant Secretary of Health Services-Clinical for reports to and from DMS, FDC, CMA, and the On-Site Contract Monitor.
- 4.31.9.4** CONTRACTOR will self-monitor compliance with performance measures in accordance with FDC policy, procedure, and HSB. CONTRACTOR shall provide one quarterly report indicating the compliance rates for each item. The report shall also note any steps taken to correct areas of service where the compliance rate falls below the threshold. This self-monitoring is in addition to the biannual performance measure monitoring to be conducted by DMS. This self-monitoring report will be due to the On-Site Contract Monitor no later than twenty-one days after the end of each quarter.
- 4.31.9.5** The Department of Management Services reserves the right to require additional reports, ad hoc reports, information pertaining to Contract compliance, or other reports or information that may be required to respond to grievances, inquiries, complaints, and other questions raised by inmates, citizens, or other parties.

#### **4.31.10 Pharmacy Services**

- 4.31.10.1** CONTRACTOR shall provide pharmacy services in accordance with Florida Statute, Florida Board of Pharmacy Rules, Federal Drug Enforcement Administration Rules, Florida Administrative Code, FDC

policy and procedure, HSB, and all other applicable rules and regulations referenced herein. CONTRACTOR shall provide sufficient controls over both its contracted and employed physicians and psychiatrists to be able to ensure strict adherence to FDC's drug formulary. Compliance with FDC's Drug Exception Request (DER) policy is required prior to prescribing any non-formulary medications with one exception; an appropriately qualified CONTRACTOR representative will stand in place of FDC to review and approve or deny DER. Subsets or restricted use of FDC's formulary that effectively limit, in any manner, the use of FDC's formulary are prohibited. Additionally, all medications shall be prescribed appropriately as indicated in the current edition of Drug Facts and Comparisons and the most recent Physicians' Desk Reference. CONTRACTOR shall not prescribe non-therapeutic doses, or change, increase or decrease medication or dosages without providing ample time for the medication to take effect as provided for in the package insert. If this occurs, CONTRACTOR will be considered non-compliant with the provisions of care in the Contract. Should there be a requirement for use of a non-therapeutic dosage or the need to prematurely change medication or dosages, there must be appropriate clinical justification documented in the chart as well as adherence to the DER process to gain approval. Practitioners' prescribing practices will be tracked monthly and reported by CONTRACTOR. Prescribing practices will also be monitored for performance measure compliance.

- 4.31.10.2** The Pharmacy shall be permitted to provide all pharmacy services for medication distribution at the Facility as required by chapters 465 and 893, Florida Statutes. This Contractor may utilize on-site pharmacies, mail order pharmacies, or any pharmacy process to meet the requirements in this section.
- 4.31.10.3** CONTRACTOR shall establish a Facility Pharmacy and Therapeutic Committee that shall make determinations regarding pharmacy services provided by CONTRACTOR, in accordance with the relevant HSB.
- 4.31.10.4** CONTRACTOR shall provide coverage on-site or on-call by a licensed pharmacist twenty-four (24) hours a day, seven (7) days a week.
- 4.31.10.5** CONTRACTOR shall provide, furnish and supply pharmaceutical and drugs to the Facility utilizing a unit dose method of packaging. A unit dose system shall provide a method for the separation and identification of drugs for the individual resident or patient. Unit doses of medication to be administered by nursing staff are to be provided in a patient-specific format. A medicinal drug dispensed in a unit dose system by a pharmacist shall be accompanied by labeling. The requirement will be satisfied if, to the extent not included on the label, the unit dose system indicates clearly the name of the resident or patient, the prescription number or other means utilized for readily retrieving the medication order, the directions for use, and the prescriber's name.

- 4.31.10.6** CONTRACTOR may provide liquid psychotropic medications in unit doses, individually labeled, with manufacturer, lot number, expiration date, and date packaged listed. If CONTRACTOR utilizes pill form psychotropic medications, the necessary precautions must be taken to prevent inmates concealing medication in the mouth, such as between the teeth and cheek (cheeking) or other means of retaining medications without ingestion.
- 4.31.10.7** CONTRACTOR shall strictly comply with FDC's formulary in all cases unless FDC approves a medication exception request.
- 4.31.10.8** CONTRACTOR shall provide other medications in liquid unit dose properly labeled as specified by the CHO. CONTRACTOR shall provide injectable medications as required.
- 4.31.10.9** CONTRACTOR shall provide hypodermic supplies including needles, syringes, and disposal containers that are tamper proof and puncture resistant. CONTRACTOR shall be responsible for appropriate disposal and/or destruction of needles and syringes, and maintain appropriate documentation.
- 4.31.10.10** CONTRACTOR shall provide prescriptions in accordance with all governing FDC policies, procedures, health service bulletins, rules and regulations, for inmates leaving on writ or discharge.
- 4.31.10.11** CONTRACTOR shall properly package all medications in light-and/or humidity- resistant containers as appropriate.
- 4.31.10.12** CONTRACTOR shall maintain copies of all prescriptions issued to inmates in a permanent file on-site for a period of no less than four (4) years from the date of last entry in the profile record in compliance with section 465.022 Florida Statutes. This record may be a hard copy or a computerized form. Copies will be provided to FDC upon request.
- 4.31.10.13** CONTRACTOR shall, in compliance with sections 465.005, 465.0155, 465.022, Florida Statutes, record and maintain all transactions with the automated pharmacy in a readily retrievable manner. The record shall be available to an authorized agent of DMS of Health or the Board of Pharmacy. The record shall include:
- 4.31.10.13.1** Name or identification of the patient or resident.
  - 4.31.10.13.2** Name, strength, and dosage form of the drug product released.
  - 4.31.10.13.3** Quantity of drug released.
  - 4.31.10.13.4** Date and time of each release of a drug.
  - 4.31.10.13.5** Name of provider pharmacy.
  - 4.31.10.13.6** Prescription number or order number.
  - 4.31.10.13.7** Name of prescribing practitioner.
  - 4.31.10.13.8** Identity of the pharmacist who approved the prescription or order. (Initials printed on the label).

**4.31.10.13.9** Identity of the person to whom the drug was released.

**4.31.10.14** CONTRACTOR shall maintain appropriate documentation including, but not limited to, inventory records, controlled drug perpetual inventory, patient profiles, and cost data for financial records. All documentation shall be made available for review by the Warden and FDC's Office of Health Services' Director of Pharmacy, or designated representatives of DMS.

**4.31.10.15** CONTRACTOR shall document and maintain a medication administration record to include all information contained on the prescription label and the name of the practitioner who prescribed the medication.

**4.31.10.16** CONTRACTOR shall perform in-service training for staff according to a schedule mutually agreed upon and approved by FDC, and in accordance with FDC policy and procedure.

**4.31.10.17** CONTRACTOR shall provide a licensed pharmacist to perform third party drug utilization reviews as requested by FDC's Clinical Quality Management Committee.

**4.31.10.18** CONTRACTOR shall provide a licensed consultant pharmacist to conduct monthly inspections of all facility areas where medications are maintained. Inspection shall include, but not be limited to, the expiration dates, storage, and a periodic review of medication records. The consultant pharmacist shall complete a monthly inspection report. One (1) copy shall remain in the pharmacy and a second copy shall be sent to FDC's Director of Pharmacy.

**4.31.10.19** CONTRACTOR shall provide a Pharmacist to serve as chairperson of the Facility's Pharmacy and Therapeutics Committee and to consult on-site and by telephone with the CHO and staff as requested.

## **4.32 Laboratory Services**

**4.32.1** CONTRACTOR shall provide laboratory services for all medically necessary and appropriate diagnostic laboratory procedures in accordance with Florida Statutes, Florida Administrative Code, FDC policy and procedure, and HSB to include the requirements set forth below:

**4.32.1.1** All urgent or rush laboratory work shall be performed at a local hospital or accredited laboratory nearest the Facility, in accordance with the relevant FDC HSB. Results shall be telephoned immediately to the requesting physician and a written report shall follow within 24 hours.

**4.32.1.2** Non-urgent laboratory services may be provided to the Facility by FDC's laboratory services contracted provider or by CONTRACTOR under a written arrangement, in accordance with the relevant FDC HSB. The most cost-effective process may be utilized subject to prior Office of

Health Services' approval. However, the laboratory must be in compliance with all applicable requirements of chapter 483, Florida Statutes, and the ACA Standards as described herein. If CONTRACTOR provides any in-house laboratory testing it must also be in compliance with the appropriate provisions of Florida law. If only waived tests are conducted, CONTRACTOR must obtain a Certificate of Exemption from the Agency for Healthcare Administration.

**4.32.1.3** Services and supplies shall include, but not be limited to:

**4.32.1.3.1** The provision of Laboratory supplies and required equipment (i.e., centrifuges).

**4.32.1.3.2** Pick-up and delivery on a daily basis, or as needed Monday through Friday.

**4.32.1.3.3** The installation of a printer and/or fax machine at the Facility to provide test results, which must be maintained in accordance with HIPAA.

**4.32.1.3.4** Immediate telephone contact with written reporting capability within 24 hours.

**4.32.2** CONTRACTOR will provide a physician or ARNP. The physician, who may also be the CHO, or ARNP shall check, initial, and date all laboratory results within an appropriate time, not to exceed 24-hours (weekends excluded) to assess the follow-up care indicated and to screen for discrepancies between the clinical observations and the laboratory results. In the event that the laboratory report and the clinical condition of the patient do not appear to correlate, it shall be the responsibility of the physician to make a clinical assessment, and to provide appropriate follow-up, which shall include reordering of the lab tests.

### **4.32.3 Radiology Services**

**4.32.3.1** CONTRACTOR shall provide Radiology Services for all medically necessary and appropriate diagnostic X-ray procedures, subject to the prior approval of FDC's Office of Health Services. All services shall be provided in accordance with Florida Statutes, Florida Administrative Code, FDC policy and procedure, HSB, and local regulations for equipment and personnel licensure.

**4.32.3.2** CONTRACTOR shall ensure that X-ray films are read by a radiologist. The radiologist shall call the CHO or ARNP with any report requiring immediate intervention. CONTRACTOR shall ensure that a written report, on the appropriate FDC form, is forwarded as required. All emergency X-rays that are required at times other than normal working hours shall be performed at a local facility. A physician, who may also be the CHO, shall review, initial and date all X-ray reports within a reasonable time.

## **4.33 Inmate Programmatic Services**

CONTRACTOR shall provide proposed evidence-based programs that have the objective of reducing recidivism by assuring the successful reintegration of the inmates back into society upon release from incarceration. These services are detailed in section 4.34, Inmate Programming Plan, and Exhibit F – Inmate Programmatic Services Plan. Such services shall be initiated upon the Service Commencement Date, and will be maintained continuously and will be in accordance with DOE, DCF, FDC policy and procedure, and certified by the FDC Chief of Programs or designee and appropriate governing agency. Teachers' and instructors' credentials must meet or exceed all applicable requirements of Florida Law and be in accordance with FDC policy and procedure. Inmates shall be assigned to programs in accordance with FDC policy and procedure, which includes the utilization of the Automated Inmate Ranking System (AIRS) and CINAS or Spectrum assessment. The inmate participation requirements set forth in CONTRACTOR's proposal shall be reevaluated annually and adjusted as necessary by mutual agreement of the parties through an addendum to the Contract. Any reduction in inmate participation requirements shall be accompanied by a corresponding reduction of the Per Diem Rate, which shall be calculated utilizing the total programming cost based on current population, as stated on Attachment I – Operating Per Diem Certification, reduced by seven percent (7%).

**4.33.1** All programs shall be evidence-based and shown through current research to successfully reduce recidivism. Evidence-based interventions and practices are programs that have been independently evaluated using sound methodology, including, but not limited to, random assignment, use of control groups, valid and reliable measures, low attrition, and appropriate analysis. Such studies should provide evidence of statistically significant positive effects of adequate effect size and duration for the intended population. In addition, there will be evidence that replication by different implementation teams at different sites is possible with the same positive outcomes. All programs should address specific issues, tasks, and skills to be mastered at each stage, to include, but not be limited to, developing job skills, addressing educational deficiencies, addressing denial and confronting the consequences of their substance abuse; identifying self-defeating thoughts and patterns of behavior; learning coping and stress management skills, and developing and identification with a crime-free lifestyle; altering self-defeating thoughts and behavioral patterns; and acknowledging personal responsibilities. Certification of evidence-based programs will occur in accordance with FDC policy and procedure through the FDC Bureau of Applied Science, Research, and Policy Clearinghouse.

**4.33.2** In addition, CONTRACTOR may utilize volunteers for programs that will contribute to leisure time, religious educational programs, or that, in CONTRACTOR's judgment, may contribute to inmates' adjustment in the Facility or upon release. Volunteers shall be screened according to the established FDC policy. These volunteers shall not substitute for teachers or instructors for any programs listed in Exhibit F – Inmate Programmatic Services Plan. The Contractor shall not be reimbursed for any volunteer time or materials used by the volunteers.

**4.33.3** All inmate programs are subject to reporting requirements of the state and federal government. All programs must be offered on a continuous basis. Teacher/instructor ratios are to be in accordance with best practices to accomplish this goal, and once approved are subject to the vacant positions requirements of



the Contract. A weekly report shall be provided to the on-site contract monitor that recaps the inmate attendance in all programs for the previous week.

**4.33.4** At all times during the course of the contract, CONTRACTOR agrees to maintain inmate participation in behavioral, academic, vocational, and substance abuse programs at the Facility at the minimum participation levels identified below, and in accordance with Exhibit F – Inmate Programmatic Services Plan.

<b>4.33.4.1</b>	Education / Academic:	25%	313 Inmates
<b>4.33.4.2</b>	Education / Vocational:	12%	150 Inmates
<b>4.33.4.3</b>	Substance Abuse:	27%	338 Inmates
<b>4.33.4.4</b>	Behavioral / Transition:	24%	300 Inmates
<b>4.33.4.5</b>	Total:		1101 Inmates

**4.33.5** Education Programs. CONTRACTOR will administer education programs pursuant to FDC Policies and Procedures, Florida Statutes, and the Florida Administrative Code.

**4.33.5.1** Education Programs shall include:

**4.33.5.2** Literacy;

**4.33.5.3** Adult Basic education I-IV;

**4.33.5.4** Pre-GED®; and

**4.33.5.5** GED® classes;

**4.33.5.6** Post-secondary Programs;

**4.33.5.7** GED® Testing. CONTRACTOR will administer all testing in accordance with Florida Department of Education standards and FDC policy and procedure. CONTRACTOR will be required to report all testing outcomes to DMS and FDC. CONTRACTOR will be responsible for all technology costs associated with administering the GED® computer-based test (CBT).

**4.33.5.8** Special Education in accordance with the Individuals with Disabilities Education Act and FDC policy and procedure related to verification and provision of services and special education teacher to student staffing ratios as set by the Bureau of Programs Special Education Administrator.

**4.33.6** Vocational Programs. CONTRACTOR will administer career and technical education/ vocational programs pursuant to FDC Policy 502.001, Florida Statutes, and Florida Administrative Code. Career and Technical Education/Vocational programs will be offered based on those listed in FDC’s career and technical education manual or may include new programs that meet the DOE Postsecondary Adult Vocational curriculum frameworks and Florida employment outlook standards as approved by the FDC Chief of Programs, or designee.

- 4.33.7** Release Preparation or Pre-Release Classes. CONTRACTOR will offer these classes or seminars in conjunction with FDC 100-hour Compass 100 transition program, following FDC policy and procedure. The classes or seminars will emphasize resources in the community to aid in transition. These resources should include information on obtaining birth certificates, copies of social security cards, obtaining a driver's license or photo identification card, applying for food stamps, workforce services, child support issues, etc.
- 4.33.8** Intervention Classes. CONTRACTOR will provide these classes to offenders with violent histories at a minimum of two (2) times per year, and more often if the population turnover warrants. These classes may be included with life skills classes. Cognitive behavior and self-help programs are encouraged.
- 4.33.9** Religious Services. CONTRACTOR shall make religious classes available to all inmates who wish to participate in accordance with the United States Constitution, Florida Statutes, Florida Administrative Code, and FDC policy and procedure. Services shall be provided by a Chaplain(s) hired by CONTRACTOR. CONTRACTOR may use only qualified volunteers. All utilization of volunteers must be done in accordance with FDC Policies and Procedures.
- 4.33.10** Organized Weekly Religious Services. CONTRACTOR shall offer organized weekly religious services. Volunteers from the community may be utilized to assist in offering a variety of religious programs. Religious activities must be afforded in accordance with applicable federal and state laws. Pastoral qualifications of employees or volunteers in this program must meet the minimum qualifications required by FDC.
- 4.33.11** Wellness Program. CONTRACTOR will provide a wellness program which includes indoor and outdoor recreation and leisure time programs for the inmates in compliance with the applicable and corresponding Constitutional standards, Florida Statutes, Florida Administrative Code, and FDC policy and procedure.
- 4.33.12** Substance Education and Treatment Program. CONTRACTOR will provide a substance education and treatment program that provides individual and group counseling for inmates designed to reduce substance use and abuse, that is normed for the population of the Facility, and is in accordance with Florida Statutes, Florida Administrative Code, FDC policy and procedure, including appropriate licensure from DCF, if applicable.
- 4.33.13** Self-Help Programs. CONTRACTOR will provide self-help programs that provide individual and group counseling for inmates as set forth below and that comply with FDC policy and procedure:
- 4.33.13.1** Alcoholics Anonymous
  - 4.33.13.2** Narcotics Anonymous
  - 4.33.13.3** Tobacco Cessation
- 4.33.14** Program Vacancies: It is understood and agreed that from time to time a vacancy may occur in a program slot required by this section. For purposes of this Contract, a vacant slot occurs when the inmate assigned to the program has transferred, refused to participate, died, or is reassigned to another program. A

vacant slot also includes an inmate assigned to the program but due to his circumstances cannot benefit from the programming. Examples include providing services to an inmate serving a life sentence with no possibility of parole, or providing pharmacy technician training to an inmate with an extensive criminal history of drug abuse. A vacancy does not occur when an inmate is temporarily absent due to illness, classification appointments, or other temporary leave conditions. In the case of a vacancy, CONTRACTOR may arrange for the service to be provided to another inmate, so long as the service is provided to an inmate with standing to benefit from the program.

**4.33.15** CONTRACTOR agrees to exercise due diligence to attempt to fill any vacant programming slots immediately upon the date which the slot becomes vacant. If CONTRACTOR anticipates a problem in filling a vacant slot, CONTRACTOR must request a waiver from DMS. The request shall be submitted to the Contract Manager through DMS' On-Site Contract Monitor. The Department of Management Services shall respond to any such request within three (3) business days.

**4.33.16** As long as CONTRACTOR has exercised and continues to exercise due diligence to fill a programming slot, the fact that the slot remains open shall not constitute an Event of Default, but if CONTRACTOR has less than the required number of inmates participating in programming for more than thirty (30) consecutive calendar days, a notice of breach and/or credits may be assessed.

#### **4.34 Inmate Programmatic Services Plan**

**4.34.1** All programs described in Exhibit F – Inmate Programmatic Services Plan, must be offered on a continuous and continual basis. CONTRACTOR must maintain teacher/instructor ratios in accordance with the Department of Education and FDC policy and procedure, and are subject to the vacant positions requirements of the Contract. CONTRACTOR shall achieve and maintain performance measures for these programs and shall provide DMS with a monthly status indicating whether the programs' goals have been met and, if applicable, the reason why the goals have not been met. CONTRACTOR will report the daily participation for all programs to the On-Site Contract Monitor on a weekly basis. CONTRACTOR shall retain the sign-in sheets for the attendance rosters in each program, and complete the documentation of hours and course completions in OBIS. All programs are subject to reporting requirements of the state and federal government.

**4.34.2** Performance Measures and Deliverables Report. The performance measures and deliverable reports will be due quarterly no later thirty (30) calendar days from the last day of the preceding Fiscal Year Quarter. For this Contract, the Fiscal Year Quarters are July through September, October through December, January through March, and April through June. These reports shall be submitted to the On-site Contract Monitor. The reports will contain the following information:

**4.34.2.1** Individual Program Plans. Percentage of individual program plans completed on newly arriving inmates during that reporting period.

**4.34.2.2** Education (ABE, Pre-GED®, and GED® classes)

- 4.34.2.2.1** Percentage of inmates enrolled in GED® class obtaining a GED® certificate within six (6) months. This measure is the number of inmates obtaining GED® certificates within six months of enrolling in a Pre-GED® and/or GED® course divided by all inmates who have enrolled in Pre-GED® and GED® classes.
- 4.34.2.2.2** Percentage of inmates who successfully complete GED® programs. This measure is the number of inmates completing GED® courses divided by all inmates who have enrolled in GED® classes.
- 4.34.2.2.3** Percentage of inmates passing the GED® test. This measure is the number of inmates obtaining GED® certificates divided by all inmates who have taken all subtests of the official GED® exam.
- 4.34.2.2.4** Percentage of inmates participating in educational programs obtaining a .5 increase in grade level for three (3) months of instruction. This measure is the number of inmates increasing grade level by at least .5 through pre-test and post-test measures divided by the total number of students enrolled in academic classes for three (3) months.
- 4.34.2.2.5** Percentage of inmates completing mandatory literacy programs (MLP) who score at or above 6th grade level on their next Test of Adult Basic Education (TABE). The MLP is a 150-hour program that is a legislative mandate for applicable offenders, as outlined in section 944.801(3)(i), Florida Statutes. The highest priority for inmate participation is focused on youthful offenders and inmates nearing release. This measure is the number of inmates who completed the literacy program with at least a 6th grade level on TABE test divided by all inmates completing the literacy program during the time period.
- 4.34.2.2.6** Percentage of inmates who successfully complete mandatory literacy programs. This measure is the number of inmates successfully completing literacy programs divided by all inmates enrolled in the literacy program during the time period.
- 4.34.2.2.7** Percentage of inmates enrolled in academic programs that have an expected release date within five (5) years. This measure is the number of inmates who are currently enrolled in academic programs and have an expected release date within five (5) years divided by the total number of inmates enrolled in academic programs.

**4.34.2.3 Career and Technical Education/Vocational (e.g., Commercial Vehicle Driving, HVAC, Administrative Assistant, Culinary Arts/Institutional Cooking, and Landscaping)**

**4.34.2.3.1** Percentage of inmates who successfully complete vocational education programs at the highest level of certification available at the facility. This measure is the number of inmates successfully completing vocational programs divided by all inmates exiting vocational programming.

**4.34.2.3.2** Average number of occupational completion points (or equivalent) earned by inmates enrolled in vocational programming. Completion points are established by DOE for vocational programs. They are the generally accepted measures of a set of knowledge that a student should have obtained during the class. This measure is the number of completion points obtained divided by the number of inmates enrolled in vocational programming.

**4.34.2.3.3** Percentage of inmates mastering stated curriculum objectives for modules at eighty percent (80%) or higher. This measure is the number of inmates mastering stated curriculum objects at eighty percent (80%) or higher divided by the number of inmates participating in the programming.

**4.34.2.3.4** Percentage of inmates enrolled in vocational programs that have an expected release date within three years. This measure is the number of inmates who are currently enrolled in vocational programs and have an expected release date within three (3) years divided by all inmates enrolled in vocational programs.

**4.34.2.4 Substance Abuse (Psycho-Educational Classes, Reactive and Preventive Counseling and Cognitive-Behavior Treatment).**

**4.34.2.4.1** At least ninety percent (90%) of inmates enrolled in substance abuse treatment programs will be assigned in accordance with the Priority Ranking Report and deemed to be most in need of treatment. This measure is the number of inmates assigned to substance abuse treatment and who were designated to be most in need of substance abuse treatment according to the Priority Ranking Reported divided by the total number of inmates assigned to the substance abuse treatment.

**4.34.2.4.2** At least sixty percent (60%) of inmates enrolled in substance abuse treatment programs will successfully complete Drug Abuse Education/Treatment programs. This measure is the number of inmates assigned to drug abuse education/treatment who successfully completed the

program divided by the number of all inmates exiting drug abuse education/treatment programs. Inmates who are administratively transferred out of the Facility by the State shall be excluded from this calculation.

**4.34.2.4.3** Percentage of random inmate drug tests that are negative for inmates in Drug Abuse Education/Treatment programs. This measure is the number of negative tests for inmates enrolled in substance abuse treatment programs divided by total number of tests for inmates enrolled in substance abuse treatment programs.

**4.34.2.4.4** Percentage of random inmate drug tests that are negative for inmates not participating in Drug Abuse Education /Treatment programs. This measure is the number of negative tests for inmates not enrolled in substance abuse treatment programs divided by total number of tests for inmates not enrolled in substance abuse treatment programs.

**4.34.2.5** Behavioral (Transition, Life Skills, and Cognitive-Behavioral Programming)

**4.34.2.5.1** Percentage of inmates receiving major disciplinary reports who have completed behavioral modification/intervention courses. This measure is the number of major disciplinary reports for inmates who have not completed behavioral programming divided by total number of major disciplinary reports.

**4.34.2.5.2** Percentage of inmates with employment documents (social security card, birth certificate, state identification, etc.) prior to release. This measure is the number of released inmates who have employment documents divided by total number of released inmates.

**4.34.2.5.3** Percentage of transition plans completed for inmates released from prison. This measure is the number of released inmates who have completed transition plans divided by total number of released inmates.

**4.34.2.5.4** Percentage of release plans completed for inmates released from prison. This measure is the number of released inmates who have release plans divided by total number of released inmates.

#### **4.35 Inmate Laundry and Clothing**

CONTRACTOR will furnish uniforms, including shoes, for inmates that will be properly sized and fitted, climatically suitable, durable, and presentable in accordance with Florida Administrative Code and FDC policy and procedure. CONTRACTOR will comply with FDC's Notice of Instruction 1-071 "Inmate Health and Comfort Items – Issuance."

CONTRACTOR will provide laundry services and clothing in compliance with the applicable and corresponding FDC policy and procedure to include, but not be limited to the following:

**4.35.1** Regular changes of clothing;

**4.35.2** Toothbrush & toothpaste;

**4.35.3** Disposable razor (except where prohibited);

**4.35.4** Bath soap;

**4.35.5** Toilet paper;

**4.35.6** Specialized clothing for inmates who are involved in activities such as food service, maintenance; and

**4.35.7** Clean bedding and linen.

**4.36 Inmate Compensation**

CONTRACTOR shall comply with Florida Statutes regarding inmate earnings distribution. Inmates assigned to work in the inmate commissary/canteen may earn compensation, in accordance with section 946.002, Florida Statutes.

**4.37 Library**

**4.37.1** CONTRACTOR shall provide an inmate law library in compliance with the Florida Statutes, Florida Administrative Code, and FDC policy and procedure. Library reports will be submitted monthly to FDC per FDC policy and procedure.

**4.37.2** CONTRACTOR will provide a general library for inmate use.

**4.38 Access to Courts**

CONTRACTOR shall provide inmates access to courts in compliance with the United States Constitution, Florida Statutes, Florida Administrative Code, and FDC policy and procedure.

**4.39 Records and Documentation**

**4.39.1** Records Maintenance: The CONTRACTOR shall retain sufficient documentation to substantiate claims for payment under the Contract and all other records, electronic files, papers, and documents made in relation to this Contract. Contractor shall retain all documents related to this Contract in compliance with the rules of the Florida Department of State. CONTRACTOR will provide a records and reporting system, both manual and computerized, for Facility operations that includes the list below and is compatible with that used by FDC. Further, CONTRACTOR's system will be in compliance with federal, state, and local laws governing confidentiality and will identify and limit those persons who have control or access. The system will provide for the following:

**4.39.1.1** Provision of all reports and records necessary for monitoring of any court-ordered compliance;

- 4.39.1.2** Maintenance of an individual custody record on each inmate that includes, but is not limited to, personal data, personal inventory receipts, disciplinary action reports, incident reports, release information, reentry plan, classification and counseling records, dental, psychiatric, and medical records;
  - 4.39.1.3** Signed release of information forms;
  - 4.39.1.4** Appropriate transfer documentation as to legal authority to accept the inmate;
  - 4.39.1.5** Referrals to other agencies;
  - 4.39.1.6** Confidentiality and safeguarding of case records to ensure against unauthorized and improper disclosure;
  - 4.39.1.7** Maintenance of records and reports; and
  - 4.39.1.8** The retention and storage of logs and records in a manner consistent with FDC policy and Florida law.
- 4.39.2** Access to Data. CONTRACTOR shall retain a list of all persons with access to data, including a statement confirming that each person has passed the Background Screening required herein. Such a statement shall not include the substance of the screening results, only that the person has passed the screening. CONTRACTOR shall create a written policy for the protection of data, including a policy and procedure for access to data. CONTRACTOR shall document and record, with respect to each instance of access to data: 1 – The identity of all individual(s) who accessed data in any way, whether those individuals are authorized persons or not; 2 – The duration of the individual(s)' access to data, including the time and date at which the access began and ended; 3 – The identity, form, and extent data accessed, including but not limited to, whether the individual accessed partial or redacted versions of data, read-only versions of data or editable versions of data; and 4 – The nature of the access to data, including whether data was edited or shared with any other individual or entity during the duration of the access, and, if so, the identity of the individual or entity. CONTRACTOR shall retain the written policy and information required in this section for the duration of this Contract and a period of no less than five (5) years from the date of termination of this Contract, and any Contract extensions. The written policy and information required in this subsection shall be included in DMS' audit and screening abilities as defined in section 19.3. The written policy and information required in this section shall also be subject to immediate disclosure upon written or oral demand at any time by DMS or its designated agents or auditors. Failure to compile, retain, and disclose the written policy and information as required in this section shall be considered a breach of the Contract. The resulting damages to DMS from a breach of this subsection are by their nature impossible to ascertain presently and will be difficult to ascertain in the future. The issues involved in determining such damages will be numerous, complex, and unreasonably burdensome to prove. The parties acknowledge that these financial consequences are liquidated damages, exclusive of any other right to damages, not intended to be a penalty and solely intended to compensate for unknown and unascertainable damages. CONTRACTOR therefore agrees to credit DMS the



sum of \$2,500 for each breach of this section. CONTRACTOR agrees to defend, indemnify and hold harmless DMS, the State of Florida, its officers, directors and employees for any claims, suits or proceedings related to a breach of this section. CONTRACTOR will include credit monitoring services at its own cost for those individuals affected or potentially affected by a breach of this section for a two (2) year period of time following the breach.

“Access” means to review, inspect, approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any data, regardless of type, form, or nature of storage. Access to a computer system or network includes local and remote access.

“Data” means a representation of information, knowledge, facts, concepts, computer software, computer programs or instructions, which is exempt, confidential, or protected health information. Data may be in any form, including but not limited to, storage media, computer memory, in transit, presented on a display device, or in physical media such as paper, film, microfilm, or microfiche. Data includes the original form of the data and all metadata associated with the data.

**4.39.3** The State of Florida requires that all data generated, used or stored by CONTRACTOR pursuant to the Contract will reside and remain in the United States and will not be transferred outside of the United States. The State of Florida also requires that all services provided under the Contract, including call center or other help services, will be performed by persons located in the United States.

**4.39.4** Data Security. CONTRACTOR has a duty to provide secure data. CONTRACTOR shall permit all persons who are duly authorized by DMS to inspect and copy any records, papers, documents, facilities, goods and services of CONTRACTOR that are relevant to this Contract, and to interview clients, employees and subcontractor employees of CONTRACTOR to assure DMS of satisfactory performance of the terms and conditions of this Contract. Following such review, DMS may deliver to CONTRACTOR a written report of its finding(s) and direct the development, by CONTRACTOR, of a corrective action plan. This provision will not limit DMS' termination rights.

**4.39.5** Management Information System:

**4.39.5.1** CONTRACTOR shall install a fully compatible electronic data processing (EDP) system to access OBIS for information purposes with regard to inmate transfer, inmate financial records, and classification and health services. CONTRACTOR will provide a system necessary to meet their own internal needs to include, but not limited to, general office automation and access to any unique “corporate” systems beyond office automation. CONTRACTOR will provide network connections to these systems as well as the Internet. A server, printers, workstations, switches and WAN/LAN wiring are the responsibility of CONTRACTOR. Wiring shall be installed and maintained in accordance with current industry standards and shall become part of the facility. Upon request, CONTRACTOR will provide the On-Site Contract Monitor with reports generated from the personnel systems to ensure contract compliance.

**4.39.5.2** Workstations must conform to DMS standards such as Windows 7 or higher, Microsoft Office 2010 or higher, Internet Explorer 11 or higher or equivalent, viral protection software and 3270 emulation. CONTRACTOR employees can connect to FDC's OBIS through the workstations once approved by FDC's Bureau of Technology Services. FDC will supply a router to CONTRACTOR's corporate office that will facilitate a VPN connection to OBIS. Approved CONTRACTOR employees will be granted restricted access to OBIS through DMS' security management system and access request process. CONTRACTOR will purchase the VPN connection from DMS.

**4.40 GENERAL REPORTING REQUIREMENTS**

CONTRACTOR shall provide to the On-Site Contract Monitor samples of new or revised reporting requirements it utilizes in the performance of its obligation under the Contract. The On-site Contract Monitor must provide approval (from the contract manager) of new or revised reporting requirements before implementation.

#### **4.41 ON-SITE CONTRACT MONITOR**

The On-Site Contract Monitor or DMS designee will be the official liaison between DMS and CONTRACTOR. All official communications shall take place between the On-Site Contract Monitor and CONTRACTOR, unless DMS directs otherwise and in accordance with section 4.47. All other communication between DMS' employees and CONTRACTOR shall be managed according to policies adopted by both parties. CONTRACTOR shall make work space available at the Facility to the On-Site Contract Monitor, which must be approved by the Contract Manager.

#### **4.42 ON-SITE CONTRACT MONITOR TECHNOLOGY REQUIREMENTS**

CONTRACTOR will provide the On-Site Contract Monitor with a computer and workstation. CONTRACTOR will provide a smart phone with access to e-mail, and access to view the Facility's camera system from their desktop computer. The desktop computer shall include access to the internet with a dedicated quality of service of at least 1.5 megabytes up and down, compatibility with the most current Microsoft software, and access to a scanner.

#### **4.43 Monitoring and Evaluation**

##### **4.43.1 Contract Monitoring/Performance Evaluation Monitoring.**

**4.43.1.1** At its discretion, DMS will monitor CONTRACTOR's performance to ensure compliance in accordance with all Contract provisions, DMS' instructions, and all applicable standards, including, but not limited to ACA Standards, Florida Administrative Code, Department and FDC guidelines, specifications of the Contract, Court Orders and Decrees. FDC will also provide audits and reviews and will have the same access as Department employees and other state entities as prescribed by law and at DMS' request.

**4.43.1.2** The On-Site Contract Monitor, or designated representatives or employees of DMS, shall conduct inspections as deemed necessary. The Department shall have the right, unless otherwise prescribed by law, to prompt access to examine and receive copies, if requested, of all records of CONTRACTOR relating to the Facility, including without limitation, all financial books and records, maintenance records, employee records, and inmate records generated by CONTRACTOR and its subcontractors, or independent contractors, in connection with the performance of the Contract.

**4.43.1.3** The Department will use a contract performance indicator assessment tool.

**4.43.1.4** Prior to execution of the Contract, the CONTRACTOR shall provide all subcontracting information on Form 7 – Subcontracting of the RFP for DMS' review. The Department's monitoring activities shall include review of subcontracts as previously described herein. The On-Site Contract Monitor shall provide CONTRACTOR, in writing, the results of monitoring/inspection activities conducted. If CONTRACTOR's noncompliance issues are noted during a monitoring activity, each shall be specifically identified and corrective action shall be recommended with a time frame specified to achieve compliance.

**4.43.1.5** The cost of the On-Site Contract Monitor will be a deduction from the monthly management payment to CONTRACTOR. The actual cost for such deductions will be based upon the appropriated rate, salary and expense dollars for the function. The approximate costs are enumerated in section 7.1.1.4.2.

**4.43.1.6** Pursuant to section 957.04(1)(g), Florida Statutes, and Contract section 7.1-Management Payment, compensation will be adjusted monthly for the On-Site Contract Monitor. Additional deductions will be made for any ad valorem taxes or payment in lieu of such taxes that may become due on the Facility pursuant to judicial determination or legislative mandate.

**4.43.1.7** The Department's On-Site Contract Monitor, or designated Department staff, will perform monitoring during the term of the Contract, to ensure Contract compliance. Monitoring shall include periodic review of compliance with Contract performance, including but not limited to, review of the following:

**4.43.1.7.1** Security

**4.43.1.7.2** Classification and Inmate Records

**4.43.1.7.3** Inmate Programs and Services

**4.43.1.7.4** Physical Plant, Safety and Sanitation

**4.43.1.7.5** Administration

**4.43.1.7.6** Food Service

**4.43.1.7.7** Personnel, Staff Development, and Training

**4.43.1.7.8** Inmate Health Services

**4.43.1.7.9** Rules of Prohibited Conduct and Discipline

**4.43.1.7.10** Insurance and Fiscal Accountability

**4.43.1.8** In addition to monitoring the performance of CONTRACTOR's operations, the Facility may be compared to the performance of the State in operating like facilities. CONTRACTOR shall supply all data related to performance of the Contract necessary to conduct such evaluations, excluding any data protected by law. In evaluating CONTRACTOR's performance, DMS shall consider the specific areas identified above. The information provided will be in a form and format compatible with the Private Prison Monitoring System and the current Contract Performance Indicator (CPI) assessment tool.

**4.43.2** Self-Monitoring. CONTRACTOR shall continually conduct self-monitoring utilizing a comprehensive self-monitoring plan providing for both Facility-level Self-

Monitoring, and Corporate-level Self-Monitoring. CONTRACTOR shall designate an employee as the staff member responsible for continuous self-monitoring of the Facility. CONTRACTOR shall provide reports and/or documentation of all self-monitoring to the On-Site Contract Monitor no later than the 15th of the month following the reporting month.

#### **4.44 Prison Rape Elimination Act**

CONTRACTOR must comply with the Prison Rape Elimination Act of 2003, 42 U.S.C. §§ 15601-15609, Public Law 108-79, September 4, 2003, and FDC policy and procedure. Further, CONTRACTOR must adopt and comply with the National Prison Rape Elimination Commission (NPREC) Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Adult Prisons and Jails. The standards can be found at: <https://www.prearesourcecenter.org>

#### **4.45 Incident Reporting**

**4.45.1** CONTRACTOR will follow the policies and procedures established by FDC and DMS in the reporting of incidents occurring at the Facility. The CONTRACTOR shall notify the On-Site Contract Monitor within twenty-four (24) hours of any incident occurring at the Facility.

**4.45.2** Any investigation undertaken by CONTRACTOR's inspector into rule or statutory violations by staff or inmates at the Facility shall be completed and disciplinary action, if any, taken no later than one hundred and eighty (180) days from the date the allegation of wrongdoing was first reported.

#### **4.46 Rules and Regulations**

**4.46.1** CONTRACTOR shall agree to comply with all state and federal constitutional requirements, laws, court orders, and ACA Standards (whether mandatory or non-mandatory), the FDC's rules, policies and procedures (unless in contravention with corresponding ACA standards), and any federal, state, local law or regulation or court order applicable to the Florida Department of Corrections.

**4.46.2** CONTRACTOR agrees to adhere to all standards applicable to the operation and management of the Facility. Such adherence shall include, but not be limited to all applicable, FDC Health Service Bulletins, and DMS, FDC, the Florida Department of Law Enforcement (FDLE), DCF, DOE, DOH, and the Chief Financial Officer's Administrative Rules and Procedures that pertain to the operations of a facility for the care, custody and control of inmates. CONTRACTOR is responsible for being familiar with and obtaining copies of current versions of such standards, manuals, procedures, etc. and any subsequent revisions and/or addenda thereto. Should local, state, federal, or program requirements change during the course of the Contract, the updated regulations and requirements will take precedence. The laws, rules, and regulations referenced in the Contract are incorporated herein by reference and made a part hereof. Any changes in the scope of service required to ensure continued compliance with state or federal laws, statutes or regulations, or Department or FDC policy or regulations will be made in accordance with section 7.4 Adjustments Due to Changes in Standards.

**4.46.3** The Department reserves the exclusive right to make certain determinations regarding the service requirements outlined in this Contract. The absence of DMS setting forth a specific reservation of rights does not mean that any provision regarding the services to be performed under this Contract are subject to mutual agreement. The Department reserves the right to make any and all determinations exclusively which it deems is necessary to protect the best interests of the State of Florida and the health, safety and welfare of the inmates and of the general public which are served by DMS, either directly or indirectly, through these services.

**4.46.4** The specific rules, procedures and regulations identified below or elsewhere in this section are not listed to the exclusion of any other rules, procedures, and regulations required throughout the Contract documents. The Department will monitor CONTRACTOR to ensure compliance with all rules, regulations, and requirements contained herein.

#### **4.47 Contract Communications**

Contract communications will be in three (3) forms: routine, informal, and formal. For the purposes of this Contract, the following definitions shall apply:

**4.47.1** Contract communications will be in three forms: routine, informal, and formal. For the purposes of this Contract, the following definitions shall apply:

**4.47.1.1** Routine: All normal written communications generated by either party relating to performance of the scope of services. Routine communications must be acknowledged or answered within thirty (30) calendar days of receipt.

**4.47.1.2** Informal: Special written communications deemed necessary based upon either Contract compliance or quality of service issues. Informal Contract communications must be acknowledged or responded to within fifteen (15) calendar days of receipt.

**4.47.1.3** Formal: The same as informal but more limited in nature, and usually reserved for significant issues such as breach of Contract, failure to provide satisfactory performance, changes in compensation, termination, or any other remedial action taken under the Contract. Formal communications shall also include requests for changes in the scope of service, and billing adjustments. Formal contract communications must be acknowledged upon receipt and responded to within seven (7) days of receipt.

**4.47.2** CONTRACTOR shall respond to Informal and Formal communications in the same format or medium as the originating communication. All written communications (fax, e-mail, letter) shall include signature and, where appropriate, a follow-up hard copy by mail. The only personnel authorized to use formal contract communications are DMS Contract Manager, Contract Administrator, and CONTRACTOR's President (or equivalent title), or their designee. Designees or other persons authorized to utilize formal contract communications must be agreed upon by both parties and identified in writing within ten (10) days of execution of the Contract. Notification of any subsequent changes must be provided in writing

prior to issuance of any formal communication from the changed designee or authorized representative.

**4.47.3** If there is an urgent administrative problem, DMS shall make contact with CONTRACTOR and CONTRACTOR shall orally respond to the Contract Manager within two (2) hours. If a non-urgent administrative problem occurs, DMS shall make contact with CONTRACTOR and CONTRACTOR shall orally respond to the Contract Manager within forty-eight (48) hours. CONTRACTOR or designee at the Facility shall respond to inquiries from DMS by providing the necessary information.

## **SECTION 5. Employees**

### **5.1 Independent Contractor**

With respect to the performance of the services set out herein, CONTRACTOR is and shall continue to be an independent contractor and, subject to the terms of this Contract, shall have the sole right to manage, control, operate, and direct the performance of the details of its duties under this Contract. CONTRACTOR's agents and employees shall not accrue from the State, DMS, or FDC any leave, retirement, insurance, bonding, or any other benefit afforded to the employees of the State, DMS, or FDC as a result of this Contract. CONTRACTOR, its agents, and employees shall not be considered agents or employees of the State, DMS, or FDC.

### **5.2 Subcontractor**

**5.2.1** CONTRACTOR may subcontract for the performance of any of its responsibilities to provide services pursuant to this Contract, provided DMS reviews all subcontracts, procedures, and operational and fixed capital outlay project plans and provides written approval, which approval may not be unreasonably withheld. CONTRACTOR shall competitively procure all subcontracts with the intention to maximize competition and ensure the greatest savings/best value possible for the state unless exempted by the Contract Manager based on a reasonable business case, which may include the existence of a national vendor contract or an emergency. All subcontractors must be registered and authorized to conduct business in the state of Florida. CONTRACTOR shall furnish to DMS' On-Site Contract Monitor copies of all subcontracts, without regard to amount of annual payments, in original and redacted versions. Any arrangement by CONTRACTOR with an affiliate or member company to provide services to the Facility shall be subject to the subcontractor provisions of this section. No contractual relationship shall exist between DMS and any subcontractor and DMS shall accept no responsibility whatsoever for the conduct, actions, or omissions of any subcontractor selected by CONTRACTOR. CONTRACTOR shall be responsible for the management of the subcontractor in the performance of their work. A subcontractor may not work directly with DMS in any manner and shall not be included in contract negotiations, renewals, audits, or any other discussions except at the request of DMS.

**5.2.2** The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority, women, and veteran business enterprises in the economic life of the State. The Department of Management Services encourages supplier diversity through certification of business enterprises, advocacy and outreach, and Business Match Maker events.

For additional information, contact the Office of Supplier Diversity at (850) 487-0915 or odshelp@dms.myflorida.com. CONTRACTOR agrees to (i) reasonably consider such business enterprises the awarding of subcontracts, (ii) comply with all controlling laws and regulations respecting the participation of such business enterprises in the provision of the contracted services, and (iii) reasonably cooperate in any studies or surveys as may be conducted by the State to determine the extent of the CONTRACTOR'S compliance with this section.

**5.2.3** The CONTRACTOR agrees to follow the subcontracting procedures set forth in section 3.11 of RFP DMS-17/18-023.

### **5.3 Personnel**

**5.3.1** CONTRACTOR shall at all times provide sufficient, trained staff to provide for and maintain the security, control, custody, and supervision of inmates of the Facility in compliance with applicable court orders, the ACA Standards, and this Contract. CONTRACTOR will provide an organization chart to include all positions within the Facility, indicating which positions are certified, critical complement, and mission critical.

**5.3.2** CONTRACTOR will provide DMS with a finalized staffing pattern prior to the Service Commencement Date. Positions will be staffed with qualified employees in accordance with the staffing pattern attached hereto as Exhibit D - Staffing Pattern that clearly identifies Security Staffing Levels pursuant to FDC Procedure 602.030. CONTRACTOR's staffing pattern must be submitted and approved by the Department's Contract Manager prior to the Service Commencement Date. Any modifications to the position requirements or the staffing pattern must be approved in writing by the Department's Contract Manager. All name changes will be sent to the On-Site Contract Monitor and noted on the Position Control Logs monthly. Exhibit E, Positions, Job Codes, and Salaries, to be provided by the CONTRACTOR, will include all positions, job codes and the minimum and maximum salary for each position. This document will be used for imposing the vacancy deductions and must be updated regularly; however, all changes must be approved by the Bureau Chief in writing.

**5.3.3** Sufficient security staff shall be employed at all times to assure that all positions identified as critical complement on the approved staffing pattern, are manned, at all times, for each shift, unless a departure from the staffing pattern has been approved in writing by the Contract Manager. The Contractor shall comply with the Security Staffing Levels pursuant to the Florida Department of Corrections' Procedure 602.030. Work Restrictions for officers in temporary employment authorization (TEA) status must be in compliance with the Florida Department of Corrections' Procedure 208.016. Contractor shall be required to fill critical complement positions by using overtime or other qualified staff members to ensure that the staffing levels do not decrease below the established critical complement. The approved staffing pattern is Exhibit-D and is incorporated herein by reference. Contractor will provide a finalized chart for each shift indicating critical complement and positions required to be filled. Contractor shall be required to provide a bi-weekly report to the On-Site Contract Monitor of the number of hours each certified officer and TEA worked during the pay period. The report will also indicate which officers are considered part time.



- 5.3.4** Part-time correctional officers may be used as long as they are fully trained and licensed. The use of part-time correctional officers will be limited to a maximum of 32) hours per officer, per week, and a total not to exceed 1,440 hours per week for the Facility. The use of part-time staff in management positions is forbidden. Full-time correctional officers shall each be limited to no more than 32 hours of overtime in any two (2) week period. The Department reserves the right to authorize exceptions to this section.
- 5.3.5** CONTRACTOR shall notify DMS, through the On-Site Contract Monitor, when any employee will be working at a location other than the Facility. This includes extended time away from the facility to attend training, conferences, assisting with an emergency, etc. The Department may approve or deny such absence. If the absence is denied and the CONTRACTOR allows the employee to work at the alternate location, a vacancy deduction may be assessed during the time of the absence.
- 5.3.6** CONTRACTOR shall conduct random drug testing monthly, to include anabolic steroid testing, of five percent (5%) of all certified staff, subject to Florida Administrative Code, Florida Statutes, and FDC policy and procedure. CONTRACTOR shall provide the plan for conducting these tests to the On-Site Contract Monitor prior to the Service Commencement Date. Monthly reports must be submitted to the On-Site Contract Monitor by the 15<sup>th</sup> of the following month. Each report will indicate which officers were tested, date tested, the result, and how the random five percent (5%) sample was selected.
- 5.3.7** The employment of unauthorized aliens by CONTRACTOR or any subcontractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the CONTRACTOR or subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Contract.
- 5.3.8** Employment Eligibility Verification.
- 5.3.8.1** Pursuant to State of Florida Executive Order Number 11-116, the CONTRACTOR agrees that it will enroll and participate in the Employment Eligibility Verification Program (E-Verify Program) administered by the U.S. Department of Homeland Security (DHS), under the terms provided in the "Memorandum of Understanding" with DHS governing the program. CONTRACTOR further agrees to provide the Department, within thirty (30) days of the effective date of this Contract, documentation of such enrollment in the form of a copy of the "Edit Company Profile" page in E-Verify, which contains proof of enrollment in the E-Verify Program. This page can be accessed from the "Edit Company Profile" link on the left navigation menu of the E-Verify employer's homepage.
- 5.3.8.2** CONTRACTOR further agrees that it will require each subcontractor that performs work under this Contract to enroll and participate in the E-Verify Program within ninety (90) days of the Service Commencement Date of this Contract, or within ninety (90) days of the effective date of the Contract between the CONTRACTOR and the subcontractor, whichever is later. The CONTRACTOR shall obtain from the subcontractor(s) a copy of the

“Edit Company Profile” screen indicating enrollment in the E-Verify Program and make such record(s) available to the Department and other authorized state officials upon request.

**5.3.8.3** CONTRACTOR further agrees to maintain records of its participation and compliance with the provisions of the E-Verify Program, including participation by its subcontractors as provided above, and to make such records available to DMS and other authorized state officials.

**5.3.8.4** Compliance with the terms of this Employment Eligibility Verification provision (including compliance with the terms of the “Memorandum of Understanding” with DHS) is hereby made an express condition of this Contract.

## **5.4 Staffing Requirements**

**5.4.1** CONTRACTOR shall provide sufficient, qualified personnel to oversee and carry out the required operations of the Facility as specified by FDC’s policies and procedures and in accordance with ACA Standards. CONTRACTOR shall maintain a file containing job descriptions for each position contained within the staffing pattern. All security posts will have a post order with sufficient detail to ensure the security person filling the position can accomplish all tasks. Job descriptions will be reviewed annually. Documentation of review and any suggested revisions will be submitted to the On-Site Contract Monitor with all revisions being approved by the Department’s Contract Manager.

**5.4.2** FDLE Automated Training Management System (ATMS): CONTRACTOR will provide updated information on the ATMS. All terminations for cause will have appropriate comments added to the termination reason in the ATMS. Correctional officer certification standards are established by FDLE.

**5.4.3** Equal Employment Opportunity: CONTRACTOR shall provide written procedures on equal opportunity practices relating to recruitment, examination, appointment, training, promotion, demotion, compensation, retention, discipline, separation, or other employment practices. Recruitment and selection shall be done without regard to age, race, color, sex, religious creed, national origin, political opinions, or affiliations, marital status or handicap, except when such requirement constitutes a bona fide occupational qualification necessary to perform the tasks associated with the position. CONTRACTOR is responsible for maintaining records as required by the federal Equal Opportunity Act.

### **5.4.4 Vacancies**

**5.4.4.1** It is understood and agreed that from time to time a vacancy may occur in staff positions required by the staffing pattern. For purposes of this Contract, a vacant position is defined to occur when the employee assigned to that position has resigned, been terminated, or is reassigned to another position. A vacant position also includes a staff position that is filled with a person who does not possess the training, licensure or credentials required to perform the function. A vacant position includes any position filled by a person possessing training, licensure or

credentialing to fill the function but was not approved to work by the DMS. A vacancy does not occur when an employee is temporarily absent due to vacation, sick leave, or other temporary leave condition. In the case of a vacancy, CONTRACTOR may arrange for the services to be provided by another appropriately qualified employee, subject to the overtime restrictions in section 6.3.4, so long as the service is actually provided on the shift or during the hours.

**5.4.4.2** CONTRACTOR agrees to exercise due diligence to attempt to fill any vacant security or non-security positions within thirty-five (35) days after the date upon which the position becomes vacant. If CONTRACTOR anticipates a problem in filling a vacant position within the thirty-five (35) day allowance, CONTRACTOR must request a waiver from DMS, to be reviewed on a case-by-case basis to fill a position with contracted staff. The request shall be submitted to the Department's Contract Manager and DMS' On-Site Contract Monitor. The Department shall respond to any such request within three (3) business days. Positions not filled with permanent employees or contracted staff will incur vacancy deductions until the position is filled. A list of vacant positions along with position control documentation must be provided to DMS' On-Site Contract Monitor to be included on the monthly vacancy report submitted to DMS. Where contracted staff is utilized, CONTRACTOR must submit the invoice relative to payment for such contracted staff, reflecting dates of service and costs, to DMS' On-Site Contract Monitor along with the position control documentation. CONTRACTOR shall also submit documentation of any use of overtime to fill vacant positions after the specified times, however DMS will not reimburse overtime. The Department shall adjust the Management Payment under section 7.1, Management Payment, accordingly. This adjustment shall not be considered or construed as a penalty or a form of damages, but as a withholding of payment for a service not provided.

**5.4.4.3** As long as CONTRACTOR has exercised and continues to exercise due diligence to fill a position, the fact that the position remains vacant shall not constitute an Event of Default; but if CONTRACTOR has less than the required number of employees for more than the specified time, deductions for vacancies will be made from the monthly per diem paid by DMS using the 365-day method inclusive of benefits, until such time as the position is filled permanently or with contracted staff.

**5.4.4.4** These deductions will be based on the minimum salary level of the staff member's position as established in Exhibit E, Positions, Job Codes, and Salaries, to be provided by the CONTRACTOR. Exhibit E, to be provided by the CONTRACTOR will also include all positions, corresponding job codes, minimum and maximum salary levels, level of education, and whether certification is required for the position.

**5.4.5 Staff Health Requirements.** CONTRACTOR shall have all staff tested annually for Tuberculosis, and inoculated for Hepatitis B per FDC's Blood Borne Pathogens Manual and applicable ACA Standards.

**5.4.6 Minimum Staffing Requirements:**

**5.4.6.1 Staffing Qualifications.** All required personnel documentation including certifications shall be maintained at the Facility. This documentation shall be made available to the On-Site Contract Monitor upon request.

**5.4.6.2 Staff Conduct.** CONTRACTOR shall ensure that all staff adheres to the following requirements for conduct:

**5.4.6.2.1** CONTRACTOR or staff shall not display favoritism to or preferential treatment of, one inmate or group of inmates over another.

**5.4.6.2.2** CONTRACTOR or staff shall not display any favoritism or preferential treatment to family, friends of employees, or inmate family members.

**5.4.6.2.3** CONTRACTOR or staff shall not enter into any business relationship with inmates or their families (example – selling, buying, or trading personal property), or personally employ them in any capacity.

**5.4.6.2.4** Unless approved in writing by the Department's Contract Manager, CONTRACTOR, or staff, shall have no outside contact (other than incidental contact) with an inmate residing or formerly residing at the Facility or their family or close associates, except for those activities which are approved as part of the Contract and part of the employee's job description. Any violation of this clause may be terms for dismissal.

**5.4.6.2.5** CONTRACTOR or staff shall not engage in any conduct which is criminal in nature or which would bring discredit upon CONTRACTOR, DMS, or FDC. In providing services pursuant to this Contract, CONTRACTOR shall ensure that their employees avoid both misconduct and the appearance of misconduct. If an employee is arrested, CONTRACTOR will notify the On-Site Contract Monitor immediately. The employee will be responsible for providing the probable cause affidavit of the arrest to the Human Resource Personnel who will forward it to the On-Site Contract Monitor, who will forward it to DMS. During this time, the employee may not perform work under this Contract. The Department will make the final determination of whether the employee will be permitted to continue to work under the Contract after review of all documentation.

**5.4.6.3** Any violation or attempted violation of the restrictions referred to in this section regarding employee conduct shall be reported by phone and in writing to the Contract Manager and the Warden, including proposed corrective action to be taken by CONTRACTOR. Any failure to report a

violation or take appropriate disciplinary action against the offending party or parties shall subject CONTRACTOR to appropriate action, up to and including termination of this Contract.

**5.4.6.4** CONTRACTOR shall report any violations detailed above and any other incident requiring investigation by CONTRACTOR in writing to the Department's Contract Manager within twenty-four (24) hours of CONTRACTOR's knowledge of the incident.

**5.4.6.5** CONTRACTOR shall provide its employees with a copy of these standards of employee conduct and document receipt of such notification in the employee's personnel file.

**5.4.6.6** Criminal History Check:

**5.4.6.6.1** As part of the pre-employment criminal history check, CONTRACTOR shall subject its officers, employees or agents, and any subcontractor or subcontracted staff performing operational and/or management services at the Facility, at CONTRACTOR's expense, to FDLE Florida Crime Information Center/National Crime Information Center (FCIC/NCIC) criminal history check. Random criminal history checks may be conducted at any time during the Contract period. In order to carry out this criminal history check, CONTRACTOR shall submit to DMS, prior to commencing services and upon request, the following data for any individual CONTRACTOR or subcontractor's staff assigned to the Contract: Full Name, Race, Sex, Date of Birth, Social Security Number, and Driver's License Number and State of Issue. The Department has full discretion to require CONTRACTOR to disqualify, prevent, or remove any staff from any work under the Contract. The Department is under no obligation to inform CONTRACTOR of the record check findings or the criteria for disqualification or removal. All name changes will be sent to the On-Site Contract Monitor as well as DMS and noted on the Position Control Logs monthly.

**5.4.6.6.2** In accordance with section 110.1127, Florida Statute. Each agency shall designate those positions that, because of the special trust or responsibility or sensitive location, require security background investigations. All persons and employees in such positions must undergo employment screening in accordance with Chapter 435, Florida Statutes, using level 2 screening standards, including fingerprinting, as a condition of employment and continued employment. Therefore, DMS requires all individuals seeking employment at private correctional facilities to submit fingerprints for a background investigation to be conducted to determine eligibility for employment.

- 5.4.6.6.3** Fees associated with the background checks and fingerprint retention in the FDLE FALCON system will be CONTRACTOR's responsibility.
- 5.4.6.6.4** If the criminal history report for an applicant contains no history of criminal activity/arrests, DMS will review and provide written notification to the CONTRACTOR that the applicant has successfully passed the criminal history background screening.
- 5.4.6.6.5** If there is a history of criminal activity/arrests, the Facility will be contacted by DMS and request the applicant contact DMS for review of the criminal history. DMS may request the applicant to provide information that may include arrest reports, court documents including final disposition, orders, judgments, probation information, State Attorney no-file documents, etc., for further review. The applicant, may fax, scan or email the requested documentation to DMS, and/or, at the applicant's discretion, provide to CONTRACTOR to send to DMS. Within two (2) business days of receiving the documentation from the Facility, the Contract Manager who will make the final determination for criminal history background clearance. CONTRACTOR will be notified the same day DMS makes its final determination by the Contract Manager.
- 5.4.6.6.6** CONTRACTOR shall screen all potential employees through referral, employment, and background checks prior to the individual providing services, care, custody, control, or supervision to inmates as directed by this Contract. This screening shall include but not be limited to employment history, academic/vocational achievement, references, organizational affiliations and any certifications or licensures. CONTRACTOR may not use FCIC/NCIC access to conduct criminal background screenings on potential employees. CONTRACTOR will not hire an employee who has close friends or family members under the care, custody or control of FDC without permission, in writing, by the Department's Contract Manager. CONTRACTOR will not employ any person who has not been approved by DMS for employment.
- 5.4.6.6.7** CONTRACTOR shall not hire any individual to provide services as described in this Contract who has been barred from any DMS, FDC, or other criminal justice facility. CONTRACTOR shall not hire any employee who has been terminated from FDC for cause. CONTRACTOR shall immediately report to DMS any new arrest, criminal charges or convictions of any current officer, agent or employee performing services under the Contract and will prohibit that staff from working until cleared by DMS.

**5.4.6.6.8** CONTRACTOR shall notify DMS immediately when an employee's resignation/termination is official for maintenance of active criminal history and personnel files. CONTRACTOR shall send an e-mail that includes the employee's first and last name, last day worked, and explicit direction to delete the employee's fingerprints from the FALCON system.

## **SECTION 6. Training**

### **6.1 Compliance**

CONTRACTOR will provide training programs in compliance with ACA Standards, Chapter 943 and section 957.05, Florida Statutes, FDLE, Division of Training, and Chapter 33, Florida Administrative Code. CONTRACTOR will provide a monthly report to the On-Site Contract Monitor by the 15<sup>th</sup> of the following month detailing training provided to personnel. The training curriculum must be approved by an appropriate oversight governing body. The report will include, but not be limited to, course title, the number of training hours, the employee's name and position, whether training is required, and the instructor's name and contact information.

## **SECTION 7. Compensations and Adjustment**

### **7.1 Management Payment**

This payment reflects operating costs and does not include debt service numbers. Compensation will be based on two (2) Per Diem Rates: the first rate is based on 90% occupancy and the second rate is based on the number of inmates exceeding the 90% occupancy.

**7.1.1** The Department of Management Services will compensate CONTRACTOR at the following Per Diem Rates (inmate, per day) for the three (3) year initial term, and renewal terms pursuant to section 2.1 and section 2.2.

**7.1.1.1** \$XX.XX times the minimum occupancy of ninety percent (90%);

**7.1.1.2** \$X.XX for each inmate over the minimum occupancy rate of ninety percent (90%);

**7.1.1.3** \$XX.XX blended Per Diem;

**7.1.1.4** Minus monthly deductions for:

**7.1.1.4.1** The Major Maintenance and Repair Reserve Fund set forth in section 3.9, in the monthly amount of \$20,833.33.

**7.1.1.4.2** Reimbursement for the On-Site Contract Monitor position set forth in section 4.41 On-Site Contract Monitor, in the monthly amount of \$4,753.00.

7.1.1.4.3 Any property taxes or payments in lieu of taxes (PILOT) that may become due on the Facility pursuant to judicial determination or legislative mandate.

7.1.1.4.4 Fees collected from the medical co-payment for each inmate-initiated, non-emergency visit to the health care provider as required by section 945.6037, Florida Statutes.

**7.1.2** Regardless of the number of inmates incarcerated at the Facility, CONTRACTOR is guaranteed an amount equal to ninety percent (90%) occupancy (1,125 inmates) times the ninety percent (90%) Per Diem Rate subject to legislative appropriations. This guarantee may be subject to the following: adjustments to compensation as set forth in section 7.1.1.4; deductions due to position vacancies as set forth in section 5.4.4, Vacancies; deductions due to program vacancies as set forth in section 4.33.14, Program Vacancies; deductions for reimbursement of the On-Site Contract Monitor as set forth above; deductions for the maintenance reserve as set forth in section 3.9, Major Maintenance and Repair Reserve Fund; ad valorem taxes and/or PILOT payments required to be paid by CONTRACTOR by judicial determination or legislative mandate, as set forth in section 11.5, Taxes, Liens, and Assessments; and any other deduction or charge permitted in this Contract.

## **7.2 Invoices**

CONTRACTOR shall submit monthly invoices within ten (10) working days of the month end, in a format acceptable to the accounting department of the DC, to the attention of the Department's Contract Manager. Invoices shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. The invoice will reflect the prison population for each day, midnight count, times the security per diem minus adjustments allowed in the Contract. The invoice will reflect a separate per diem for programs provided by CONTRACTOR. The DC will verify the daily inmate population count. If there is a discrepancy between CONTRACTOR's and the DC's count, the DC's count will be used in calculating the per diem payment. Invoices will be adjusted as specified in the Contract.

**7.2.1** CONTRACTOR will provide required documentation for the invoice to the On-Site Contract Monitor each month when the invoice is submitted to DMS' Contract Manager. The Department's On-Site Contract Monitor, or his/her successor, shall be responsible for enforcing performance of the Contract terms and conditions, and he/she shall serve as liaison between CONTRACTOR and DMS and shall approve all invoices for payment pursuant to chapter 215, Florida Statutes.

**7.2.2** Invoices must be submitted to:  
Neal Morris, Bureau Chief  
Bureau of Private Prison Monitoring  
Florida Department of Management Services  
4050 Esplanade Way, Suite 380  
Tallahassee, Florida 32399-0950

## **7.3 Interest Penalties**

**7.3.1** Payment shall be made in accordance with sections 215.422 and 55.03, Florida Statutes, which state CONTRACTOR's rights and DMS' responsibilities concerning



interest penalties and time limits for payment of invoices. Contractors providing goods and services to an agency should be aware of the following time frames. Upon receipt, an agency has five (5) working days to inspect and approve the goods and services, unless the bid specifications, purchase order, or contract specifies otherwise. An agency has twenty (20) days to deliver a request for payment (voucher) to the Department Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

**7.3.2** If a payment is not available within forty (40) days, a separate interest penalty, established annually by the Chief Financial Officer pursuant to section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to CONTRACTOR. Invoices which are returned to CONTRACTOR due to CONTRACTOR's preparation errors will result in a delay in the payment. The applicable time period does not commence until a properly completed invoice is received by DMS.

**7.3.3** A contractor Ombudsman has been established within the Department of Financial Services. The duties of this office are found in section 215.422, Florida Statute, which include disseminating information relative to prompt payment and assisting vendors in receiving their payments in a timely manner. The Ombudsman may be contacted at (850) 413-5516.

#### **7.4 Adjustments Due to Changes in Standards or Unforeseen Circumstances**

The Department of Management Services recognizes that CONTRACTOR has entered into this Contract based upon ACA Standards, FDC or DMS policies, procedures, rules, bulletins, technical instructions, and laws in effect as of the Effective Date. If there are changes in these or any other applicable legal standards or Unforeseen Circumstances which change the scope of services to be furnished pursuant to this Contract, and increase or decrease the cost of managing the Facility, CONTRACTOR will provide DMS written notice and documentation supporting an adjustment to compensation. This may include the contracted inmate population. The Department will review and not unreasonably deny the adjustment to compensation. The Department may adjust the total compensation paid CONTRACTOR so that CONTRACTOR may be paid compensation equal to the amount required to the change in CONTRACTOR's cost of managing the Facility because of the change in scope of services, retroactive to the effective date of such cost changes. Since requests for appropriated funds are based on costs as provided in the Contract documents, any adjustment to compensation to cover changes in standards or Unforeseen Circumstances which changes the scope of services shall be subject to adequacy of appropriated funds, sufficient to cover the compensation change.

#### **7.5 Financial Consequences**

The Per Diem payment set forth in section 7.1, Compensations and Adjustments, assumes the services required under this Contract are fully performed. If the services are not fully performed, DMS will be entitled to financial consequences, as set forth below, to be credited against CONTRACTOR'S monthly invoice. The credits are a reasonable approximation of the contract price allocable to those services. The credits are not intended to be a penalty on the Service Provider and DMS may waive the credits in a particular case if DMS determines, in its discretion, that the credits are not warranted. For services to be performed on a constant or daily basis, the credits will accrue for each day

the service was not fully performed. For services to be performed on a less regular basis (e.g., a monthly report), the credits will accrue for each time the service was not fully performed. These credits shall be in addition to, and shall not constitute a waiver of, DMS' right to pursue any remedies or other damages under section 10, Default and Termination Provisions, of this Contract. Prior to exercising its rights under this section, DMS will communicate in writing to CONTRACTOR the reasons why the credit is due and give CONTRACTOR at least twenty (20) days to correct the non-performance and submit an action plan for avoiding future non-performances. This opportunity to avoid the credit adjustment by correcting the non-performance and submitting an action plan shall not apply in the event of successive or repeated non-performances of the same nature. The corrective action procedure in this section does not apply to breaches of section 4.39.2 Access to Data or section 11.20 Public Records. The credits depend on the "Service Area" in which the non-performance occurred, as follows:

- 7.5.1** Service Area One - \$5,000 per Non-Performance Event. This Service Area consists of all services related to: Security and Control, ACA Accreditation, Health Services, Use of Force, Inmate Grievance Procedure, Cooperation with the Inspector General/FDC Office of Inspector General, Prison Rape Elimination Act (PREA), Lobbying and Integrity.
- 7.5.2** Service Area Two - \$2,500 per Non-Performance Event. This Service Area consists of all services related to: Operating Standards, Sanitation and Hygiene, Food Service, Inmate Mail and Telephone, Religion, Access to Court, Inmate Discipline, Visitation, Books/Records/Documentation and Reports, Access to Data, Public Records, Employee Training.
- 7.5.3** Service Area Three - \$2,000 per Non-Performance Event. This Service Area consists of all services related to: Access to the Facility, Vehicles, Maintenance, Repairs and Replacements, Inmate Programmatic Services and Plan, Classification and Case Management, Commissary, Policies/Procedures/Post Orders, Inmate Management Fund/Bank Accounts, Communications/Notifications, Personnel/Staffing Requirements, Contract Monitoring.
- 7.5.4** Service Area Four - \$1,500 per Non-Performance Event. This Service Area consists of all services related to: Inventory, Laundry and Inmate Clothing, Utilities, Invoices, Insurance.

## **7.6 Supplemental Compensation**

In the event that, pursuant to section 3.11, Expansion and Renovation, CONTRACTOR proposes to expand the capacity of the Facility and DMS approves such a proposal, then CONTRACTOR shall be eligible for supplemental compensation for any inmates housed in the Facility in excess of the original capacity. The per inmate, per day rate of any such supplemental compensation will be an amount mutually agreed upon by DMS and CONTRACTOR, and shall not be greater than the maximum allowable pursuant to section 957.07, Florida Statutes, and shall be subject to legislative appropriation.

## **7.7 Appropriation Contingency**

The State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature, pursuant to section 287.0582, Florida

Statutes; the State is not obligated for any payments that exceed the amount of the current appropriation, pursuant to section 957.04(1)(h), (2)(d), Florida Statutes.

## **SECTION 8. Indemnification and Insurance**

### **8.1 Indemnification**

**8.1.1** CONTRACTOR hereby assumes entire responsibility and liability for any and all damages or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether employees of CONTRACTOR or otherwise, and to all property caused by, resulting from, arising out of, or occurring in connection with, any action of CONTRACTOR (including its officers, directors, employees, subcontractors, or agents) in performance of the duties of this Contract. If any claims for such damage or injury (including death resulting therefrom) be made or asserted, whether or not such claims are based upon CONTRACTOR's (including its officers, directors, employees, subcontractors, or agents) active or passive negligence or participation in the wrong, or upon any alleged breach of any statutory duty or obligation on the part of the above parties, CONTRACTOR agrees to indemnify, defend and hold harmless, the State and DMS, its officers, agents, servants and employees, from and against any and all such claims, and further from and against any and all loss, cost expense, liability, damage or injury, including legal fees and disbursements, that the State, its officers, agents, servants or employees may directly or indirectly sustain, suffer, or incur as a result, and CONTRACTOR agrees to and does hereby assume, on behalf of the State, its officers, agents, servants and employees, the defense of any action at law or in equity which may be brought against the State, its contractors (if any), its officers, agents, servants or employees, arising by reason of such claims and to pay on behalf of the State, its officers, agents, servants and employees, upon demand of either of them, the amount of any judgment that may be entered against them, individually, jointly or severally, its officers, agents, servants or employees in any such action.

#### **8.1.1.2 Contractor Representative**

The CONTRACTOR's contact for requests for indemnification pursuant to the terms of this Contract shall be as follows:

Jane Doe  
<Insert vendor name>  
<Insert vendor physical address>  
Telephone: (850) XXX-XXXX  
Email: [jane.doe@xxxxxx.com](mailto:jane.doe@xxxxxx.com)

**8.1.2** As part of CONTRACTOR's assumption of all responsibility and liability for any and all damage or injury as detailed above, CONTRACTOR further agrees to hold harmless, defend and indemnify the State for any loss, expense, recovery or settlement, including counsel fees and costs of defense, which arise from any demand, claim (whether frivolous or not) or suit which may be asserted or brought against the State or CONTRACTOR as a result of any injury or damage to any person or persons (including death) or property (i) allegedly caused by, resulting from, arising out of, or occurring in connection with the furnishing of any goods, equipment or services or the performance or preparation for performance of any of the work or any duties of CONTRACTOR hereunder, or incidental or pertaining thereto, and (ii) whether or not such injury or damage is due to or chargeable to the

CONTRACTOR or subcontractor under a contract for which the goods or services herein ordered are required, including, but not limited to, any claim based on liability without fault for injury caused by defective goods supplied by CONTRACTOR. CONTRACTOR also agrees to assume responsibility for, hold harmless, defend and/or indemnify the State for payment of any expenses, costs (including delay costs), direct and consequential damages, penalties, taxes or assessments (including punitive damages), including counsel fees and costs of defense, which may be imposed or incurred (a) under any Federal, State, or local law, ordinance or regulation upon or with respect to any compensation of any person employed by CONTRACTOR, and (b) under any Federal, State, or local law, ordinance or regulation upon or with respect to discrimination in employment against any individual employed by CONTRACTOR on the basis of race, color, religion, sex, or national origin, and (c) under any Federal, State, or local law, ordinance or regulation upon or with respect to any compensation of any person for claims or civil actions alleging civil rights liability or deprivation of right, privilege, or immunity secured by the United States Constitution and laws pursuant to 42 USC Section 1983 or similar statutes as well as claims for attorney fees brought pursuant to 42 USC Section 1988 or similar statutes.

**8.1.3** The CONTRACTOR shall notify DMS of any legal actions filed against it for a violation of any laws, rules, codes, ordinances, or licensing requirements within thirty (30) days of the action being filed. The Contractor shall notify DMS of any legal actions filed against it for a breach of a contract of similar size and scope to this Contract within thirty (30) days of the action being filed. Failure to notify DMS of a legal action within thirty (30) days of the action shall be grounds for termination or nonrenewal of the Contract.

## **8.2 Legal Proceedings**

CONTRACTOR shall not be responsible for defending any post-conviction action, including appeals and writs of habeas corpus, by any inmate challenging the underlying judgment of conviction or the administration of the sentence imposed.

## **8.3 Insurance**

**8.3.1** CONTRACTOR is responsible for obtaining and maintaining adequate insurance coverage as required herein. CONTRACTOR shall obtain and provide proof of general liability insurance coverage (broad form coverage) which shall specifically include fire, and legal liability in an amount not less than \$2,000,000 for each occurrence within a yearly aggregate of at least \$10,000,000, and civil rights claims in an amount not less than \$2,000,000 for each occurrence within a yearly aggregate of at least \$5,000,000. The State of Florida and its respective agencies shall be included as additional insured under the policy of general liability insurance coverage issued to CONTRACTOR. Coverage for civil rights liability may be issued under a separate policy but shall also include the State and its agencies as additional insured. Vehicle liability coverage for all vehicles used by CONTRACTOR shall be provided in an amount of not less than \$2,000,000 per occurrence. Coverage shall also specifically be provided to protect against employee dishonesty in an amount of not less than \$50,000.

**8.3.2** CONTRACTOR shall obtain and provide proof of workers' compensation and employer's liability insurance per Florida statutory limits for all employees of CONTRACTOR.

- 8.3.3** CONTRACTOR shall obtain and/or provide proof of professional liability insurance coverage, including medical malpractice liability, and errors and omissions coverage, to cover all professional services to be provided by CONTRACTOR to the State under this Contract. The amount of coverage obtained shall be \$2,000,000 per occurrence with a \$5,000,000 yearly aggregate. If occurrence coverage is not available, claims-made coverage with three (3) year tail coverage shall be provided for the same amounts and aggregate as detailed above.
- 8.3.4** CONTRACTOR shall take out and maintain during the life of this Contract an Umbrella Liability Policy for limits in excess of the primary liability policy. Such policy shall be a following form policy in the amount of \$10,000,000 per occurrence and \$35,000,000 yearly aggregate limit. Layer coverage may satisfy those totals.
- 8.3.5** CONTRACTOR shall obtain and provide proof of contractual liability insurance coverage to cover all liability assumed by CONTRACTOR under this Contract and for which CONTRACTOR may be liable to the State under the indemnification provisions of this Contract (intermediate form coverage). Such coverage may be provided by separate coverage or as an additional endorsement to a general liability policy, but shall be in the same amounts and limits of coverage as that required for general liability coverage.
- 8.3.6** CONTRACTOR shall obtain and provide proof of boiler and machinery coverage ("comprehensive" coverage) in the amounts of \$1,000,000 per occurrence to cover all loss arising from the operation of boilers and machinery, including loss to other property and losses due to business interruption.
- 8.3.7** CONTRACTOR shall obtain and provide proof of premises liability insurance (which should be included in any general liability coverage) and property coverage (tire and extended coverage) for the full value of the buildings, structures or other facilities operated by CONTRACTOR and its subcontractors and all movable contents which value can never be less than the then remaining balance owed under the Lease Purchase Agreement. The State and its respective agencies shall be included as additional insured under this policy.
- 8.3.8** CONTRACTOR shall obtain and maintain environmental impairment liability coverage for liability resulting from sudden, accidental or gradual pollution arising from operations conducted by the insured, covering damage for bodily injury and property damage in the amount of \$1,000,000 per occurrence and \$2,000,000 yearly aggregate limit. The State and its respective agencies shall be included as additional insured under this policy.
- 8.3.9** CONTRACTOR shall take out and maintain during the life of this Contract, automobile liability coverage for owned, hired and non-owned vehicles, and equipment. The policy shall have combined single limits, per occurrence, for bodily injury and property damage of not less than \$1,000,000.
- 8.3.10** CONTRACTOR shall require each of its subcontractors to secure and maintain during the term of this Contract (or for such lesser amount of time if the subcontractor is involved less than the full term of this Contract), the insurance

coverage set forth in subparagraphs 8.3.1, 8.3.2, and 8.3.9, except that CONTRACTOR shall also be an additional insured for the general liability insurance. Such coverage may be reduced or waived when approved in writing by the Contract Manager with the consent of DMS because certain subcontractors have potentially less exposure than other subcontractors depending on the nature of their work under this Contract. In no event may the subcontractor self-insure unless DMS provides prior written consent.

- 8.3.11** All insurance coverage shall be obtained by CONTRACTOR through an insurance agent licensed in the State of Florida and such coverage shall be provided by an insurance company licensed to issue such coverage in the State of Florida. No "self-insurance" coverage shall be acceptable unless CONTRACTOR is licensed or authorized to self-insure for a particular coverage in the State of Florida, or is an insured member of a self-insurance group that is licensed to self-insure in Florida. All policies shall include a provision requiring at least thirty (30) days' prior written notice of cancellation to the State.
- 8.3.12** All insurance coverage required to be obtained by CONTRACTOR shall continue in full force and effect during the term of the Contract. No contract shall be entered into between CONTRACTOR and Department unless insurance coverage binders are received by the date scheduled for the execution of the Contract. Proof of insurance policies must be delivered prior to the date on which the services of CONTRACTOR shall commence.
- 8.3.13** All insurance coverage is to be provided by insurance carriers admitted to do business in Florida and coverage issued by surplus lines companies shall not be acceptable with the exception of civil rights liability coverage. All insurance carriers shall be, at the minimum, rated "A VII" by A.M. Best or an equivalent rating by a similar insurance rating service.
- 8.3.14** CONTRACTOR may choose the amount of deductible for any of the insurance coverage required above to be obtained by CONTRACTOR, but in no event shall such deductible for each occurrence exceed three percent (3%) of the required yearly aggregate limit of coverage.
- 8.3.15** CONTRACTOR is responsible for first dollar defense coverage. All general liability and professional liability policies shall provide defense in addition to the policy limits.
- 8.3.16** The limits required herein are the minimum acceptable. However, these limits are not to be construed as being the maximum any contractor may wish to purchase for their own benefit.
- 8.3.17** In respect to the total limits of liability required, any combination of primary and/or umbrella coverage may satisfy those totals. However, if an umbrella is used, coverage must be at least as broad as the primary coverage.

#### **8.4 Certificate of Insurance**

During the performance of the management services hereunder, CONTRACTOR shall maintain the plan of insurance and submit a Certificate of Insurance to DMS for the mutual

protection and benefit of it and DMS, naming DMS as co-insured and entitled to all notices issued under the policy, to cover claims that may arise out of or result from CONTRACTOR's operation and management services hereunder, whether same be by CONTRACTOR or a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The Department of Management Services shall be notified at least thirty (30) days in advance of cancellation, non-renewal or adverse change in the coverage. New Certificates of Insurance are to be provided to DMS at least fifteen (15) days after receipt by CONTRACTOR.

**8.5 Defense and Immunity**

By entering into the Contract, neither the State, DMS, FDC, nor CONTRACTOR waives any immunity defense which may be extended to them by operation of law including limitation of damages; excepting only that CONTRACTOR may not assert the defense of sovereign immunity.

**8.6 Notice of Claims**

Within five (5) calendar days after receipt by DMS, or of any agent, employee, or officer thereof of a summons in any action, or within five (5) calendar days of receipt by DMS, or of any agent, employee, or officer thereof, of notice of claim, DMS, or any agent, employee, or officer, shall notify CONTRACTOR in writing of the commencement thereof. The notice requirement is intended to ensure that CONTRACTOR's defense of the claim is not harmed by failure to comply with the notice requirements. Failure to comply with the notice requirements may result in CONTRACTOR's refusal to indemnify DMS, or any agent, employee, or officer, but only if such failure to notify results in a prejudice to CONTRACTOR, DMS, or any agent, employee, or officer. CONTRACTOR will provide DMS similar notice of claims.

**8.7 Prior Occurrences**

Unless otherwise agreed in writing, CONTRACTOR shall not be responsible for any losses or costs resulting from inmate litigation pending at the Effective Date of this Contract or for lawsuits based on acts or omissions occurring prior to the Effective Date of the Contract. CONTRACTOR agrees to cooperate with the State in the defense of these suits. The Department recognizes that any settlement or judgment in such cases may lead to a request that the compensation be increased pursuant to section 7.4, Adjustment Due to Changes in Standards or Unforeseen Circumstances.

**8.8 Waiver**

No waiver of any breach of any of the terms or conditions of the Contract shall be held to be a waiver of any other or subsequent breach; nor shall any waiver be valid or binding unless the same shall be in writing and signed by the party alleged to have granted the waiver.

**8.9 Letter of Credit**

**8.9.1** CONTRACTOR shall be required to submit, signed on or after August 28, 2018, an irrevocable letter of credit in the amount of \$1,000,000.00, issued by a U.S. commercial bank or a foreign bank authorized to do business in the State of Florida, that on the terms provided in the letter of credit, permits DMS to draw up to the face amount thereof for the purpose of paying any and all amounts owing by CONTRACTOR thereunder and shall remain in effect for at least ninety (90) days after the end of the Contract term.

**8.9.2** CONTRACTOR shall not be required to provide a performance bond.

### **SECTION 9. Certain Prohibitions**

CONTRACTOR acknowledges the provisions of section 957.06, Florida Statutes, which states that a contract entered into under this chapter does not authorize, allow, or imply a delegation of authority to CONTRACTOR to:

- 9.1** Choose the facility to which an inmate is initially assigned or subsequently transferred. CONTRACTOR may request, in writing, that an inmate be transferred to a facility operated by FDC. The Department, CONTRACTOR, and a representative of FDC shall develop and implement, maintain, and comply with the Transfer Agreement (Exhibit B) for transferring inmates between a correctional facility operated by FDC and a privately operated correctional facility.
- 9.2** Develop or adopt disciplinary rules or penalties that differ from the disciplinary rules and penalties that apply to inmates housed in correctional facilities operated by FDC.
- 9.3** Make a final determination on a disciplinary action that affects the liberty of an inmate. CONTRACTOR may remove an inmate from the general prison population during an emergency, before final resolution of a disciplinary hearing, or in response to an inmate's request for assigned housing in protective custody.
- 9.4** Make a decision that affects the sentence imposed upon or the time served by an inmate, including a decision to award, deny, or forfeit gain-time.
- 9.5** Make recommendations to the Parole Commission with respect to the denial or granting of parole, control release, conditional release, or conditional medical release. However, CONTRACTOR may submit written reports to the Parole Commission and must respond to a written request by the Parole Commission for information.
- 9.6** Develop and implement requirements that inmates engage in any type of work, except to the extent that those requirements are accepted by DMS.
- 9.7** Determine inmate eligibility for any form of conditional, temporary, or permanent release from a correctional facility.

### **SECTION 10. Default and Termination Provisions**

#### **10.1 Department Breach**

Each of the following shall constitute a Breach of Contract on the part of DMS:

- 10.2** After appropriation of adequate funds by the State, failure by DMS to make payments to CONTRACTOR under the guidelines of section 215.422, Florida Statutes.
- 10.3** The persistent or repeated failure or refusal by DMS to substantially fulfill any of its obligations under this Contract; unless: such failure or refusal is caused by a Force Majeure event or is otherwise excused under this Contract; such failure or refusal is permitted in writing by CONTRACTOR in advance; or, such failure or refusal is directly caused by CONTRACTOR's breach.



#### **10.4 Contractor Breach**

Each of the following shall constitute a Breach of Contract on the part of CONTRACTOR:

- 10.4.1** A material failure to keep, observe, perform, meet, or comply with any covenant, agreement, term, or provision of this Contract to be kept, observed, met, performed, or complied with by CONTRACTOR hereunder.
- 10.4.2** A material failure to meet or comply with any court order, ACA Standards, or federal or state requirement of law.
- 10.4.3** A failure to maintain ACA accreditation in accordance with section 4.9, American Correctional Association Accreditation;
- 10.4.4** CONTRACTOR (i) admits in writing its inability to pay its debts; (ii) makes a general assignment for the benefit of creditors; (iii) suffers a decree or order appointing a receiver or trustee for all or substantially all of its property to be entered and, if entered without its consent, not to be stayed or discharged within sixty (60) days; (iv) suffers proceedings under any law relating to bankruptcy, insolvency, or the reorganization or relief of debtors to be instituted by or against it and, if contested by it, not to be dismissed or stayed within sixty (60) days; or (v) suffers any judgment, writ of attachment or execution, or any similar process to be issued or levied against a substantial part of its property which is not released, stayed, bonded, or vacated within sixty (60) days after issue or levy; or
- 10.4.5** Any other action by CONTRACTOR which would be considered a breach of this Contract at common law.

#### **10.5 Notice of Breach**

No remedial action may be taken under this Contract unless and until the party asserting a breach specifies, in writing to the party against whom the breach is asserted, that a breach or breaches exist(s) which, unless corrected or cured within a time period specified in the notice, will result in the taking of such action.

#### **10.6 Time to Cure**

Except in cases where immediate compliance is required under Section 10.8, Immediate Compliance, the non-breaching party will provide the other party an opportunity to cure each Breach of Contract that is capable of being cured. The cure period will extend at least twenty (20) days from the date the Notice of Breach is received. In the event CONTRACTOR reasonably believes that a Breach of Contract cannot be cured within the time period specified in the notice, and that such Breach of Contract can be cured through a diligent, ongoing, and conscientious, effort on the part of CONTRACTOR within a reasonable period not to exceed a total of sixty (60) days, unless extended by DMS, then CONTRACTOR may, within the specified cure period, submit a plan for curing the Breach of Contract to DMS. Such plan shall show in detail by what means CONTRACTOR proposes to cure the Breach of Contract. Upon receipt of any such plan for curing a Breach of Contract, DMS shall promptly review such plan and, at its sole discretion, may allow, or disallow, CONTRACTOR to pursue such plan for curing the Breach of Contract. In accordance with section 957.14, Florida Statutes, and notwithstanding anything in this Contract to the contrary, DMS will not terminate this Contract unless CONTRACTOR has had at least sixty (60) days to correct the Breach of Contract.

## **10.7 Remedy of the Department of Management Services**

Upon the occurrence of a Breach of Contract by CONTRACTOR, and subject to the notice and cure provisions in this Contract, DMS shall have the right to adjust CONTRACTOR'S compensation as set forth in section 7.1, Management Payment, and pursue any other remedy it may have at law or in equity, including, but not limited to, (i) reducing its claim to a judgment and seeking all damages for such breach; (ii) taking action to cure the Breach of Contract, in which case DMS may offset against any payments owed to CONTRACTOR all reasonable costs incurred by DMS in connection with its efforts to cure such Breach of Contract; (iii) terminating the Contract and removing CONTRACTOR as the operator of the Facility and offsetting against any payments owed to CONTRACTOR by DMS of all reasonable costs incurred by DMS to cure the Breach of Contract, including attorneys' fees. In the event of a termination of this Contract due to a Breach of Contract under section 10.3, Contractor Breach, DMS shall have no further obligations to CONTRACTOR after CONTRACTOR's removal; CONTRACTOR agrees to comply with section 11.3, Transition Services, and section 11.4, Transition Plan, with respect to the transition to new management. In the event of any remedy pursuant to this section, CONTRACTOR shall have the right to appeal to DMS, and during any such appeal, the remedies pursuant to this paragraph shall be tolled. In the event of a termination for cause, CONTRACTOR'S liability shall include, but not limited to, any costs associated with the transportation of Inmates, any expenses incurred by DMS or any other agency to staff the Facility, and any expenses incurred by DMS or any other agency to operate the Facility which exceed the amount DMS would have paid the CONTRACTOR under this Contract.

## **10.8 Remedy of the Contractor**

Upon a Breach of Contract by DMS, and subject to the notice and cure provisions of this Contract, CONTRACTOR's sole remedy shall be to terminate this Contract. Upon such termination, CONTRACTOR shall be entitled to receive from DMS payment for all services satisfactorily furnished under this Contract up to and including the date of termination.

## **10.9 Immediate Compliance**

Notwithstanding anything in this Contract to the contrary, if the Agency Head of DMS reasonably determines that CONTRACTOR'S noncompliance with a term or condition of this Contract may adversely affect the security of the Facility or present a hazard to the safety or health of inmates or other individuals, CONTRACTOR shall be notified and directed to immediately correct the non-compliance.

**10.9.1** Upon receipt of such notice, CONTRACTOR shall immediately advise DMS of a proposed corrective action. If DMS accepts the proposed corrective action, CONTRACTOR shall immediately implement said corrective action. If DMS rejects the proposed corrective action or if CONTRACTOR fails to advise DMS immediately of its proposed corrective action, DMS shall specify the corrective action that CONTRACTOR must immediately implement.

**10.9.2** In the event CONTRACTOR disagrees with DMS' determination of non-compliance or designated corrective action, a request for reconsideration may be submitted in writing to DMS. In no event shall the corrective action be delayed pending appeal.

## **10.10 Force Majeure**

The failure of performance of any of the terms and conditions of this Contract by either party due to Force Majeure shall not constitute a Breach of Contract under this Contract.

## **10.11 Termination**

The following provisions are in addition to section 22 and 23 the PUR 1000. In case of conflict, the sections below will prevail.

**10.11.1** Termination for Non-Appropriation. If at any time during the term of this Contract, including any renewal period, the Legislature reduces appropriations to DMS or DMS' legally available funds are otherwise inadequate to fully fund the Contract, the parties agree to collaborate in good faith in accommodating such funding shortfalls in a manner least disruptive to current operations. If necessary, the parties agree to engage in good faith negotiations to amend this Contract to achieve commensurate reduction in services corresponding to any proposed or necessary Per Diem reduction. If accommodations or negotiations become irreconcilably untenable to the parties, DMS may exercise its no-fault termination rights under this Contract.

**10.11.2** Termination for Cause. In the event DMS is entitled to terminate this Contract due to a Breach of Contract by CONTRACTOR, DMS may terminate this Contract immediately or in stages. Following notice of termination, in coordination with FDC, DMS may coordinate the placement of FDC supervisors or employees in the Facility and be allowed to direct activities and operations in the Facility. The termination notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that CONTRACTOR shall cease operations under the Contract in stages.

**10.11.3** Partial Takeovers without Cause. The Department may, at its convenience and without cause, exercise a partial takeover of any service which CONTRACTOR is obligated to perform under this Contract, including but not limited to, any service which is the subject of a subcontract between the CONTRACTOR and a third party (hereinafter referred to as "Partial Takeover"). A Partial Takeover shall not be deemed a Breach of Contract by either party. CONTRACTOR shall be given at least thirty (30) days prior written notice of a Partial Takeover with said notice to specify the area(s) of service DMS will assume, the date of assumption, and, if possible, the accompanying adjustment in compensation under the Contract as described below.

10.11.3.1 A Partial Takeover shall not alter in any way CONTRACTOR'S other obligations under this Contract. If a Partial Takeover substantially undermines the benefit of the bargain to CONTRACTOR, CONTRACTOR may elect to terminate this Contract for convenience, in which case the parties shall agree on a date of termination that will allow for an orderly and efficient transition to DMS or another vendor. The Department will work cooperatively with CONTRACTOR in the Partial Takeover of any services provided by a subcontractor in order to minimize prejudice to CONTRACTOR.

10.11.3.2 In the event of a Partial Takeover, DMS may withhold from payments due CONTRACTOR the amount of CONTRACTOR'S estimated cost savings resulting from not having to deliver the full services. CONTRACTOR will supply DMS with information to demonstrate its cost of providing the services taken over. CONTRACTOR shall have no other right to recover from DMS any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount resulting from the Partial Takeover.

**10.11.4** Other Rights to Assume Temporary Control of Facility. The Department also reserves the right to temporarily assume or coordinate with FDC to assume control of the Facility during a natural disaster, riot or disturbance within the Facility, or under other conditions that present a serious threat to the safety, health or security of the inmates, employees, or the public. This right to assume control shall create no obligation on the part of DMS to assume control in any particular case.

**10.11.5** Termination for Convenience. The Department may terminate this Contract for convenience by giving CONTRACTOR at least ninety (90) days written notice. CONTRACTOR shall be paid through the date of cancellation but shall not be entitled to recover any cancellation charges or lost profits.

## **10.12 Limitation of Liability**

**10.12.1** For all claims against CONTRACTOR under this Contract, regardless of the basis on which the claim is made, CONTRACTOR'S liability shall be limited to (i) the amount payable for such claims under any insurance policy required under section 8.3, Insurance; plus (ii) two (2) times the amount CONTRACTOR has invoiced DMS for services under this Contract. This limitation shall not apply to claims arising under the indemnity provisions of this Contract.

**10.12.2** Unless otherwise specifically enumerated in this Contract including section 4.39.4 Data Security, no party shall be liable to another for special, indirect, punitive, or consequential damages, including for lost data or records (unless the Contract requires the CONTRACTOR to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The Department may, in addition to other remedies available to them at law or equity and upon notice to CONTRACTOR, retain such monies from amounts due CONTRACTOR as may be necessary to satisfy any claim for damages, price adjustments, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the CONTRACTOR or its affiliates to the State against any payments due the CONTRACTOR under any contract with the State.

## **SECTION 11. Miscellaneous Provisions**

### **11.1 Books and Records**

CONTRACTOR shall keep, at the Facility, proper and complete books, records, and accounts with respect to the Facility and all subcontractors thereof; and shall permit the On-Site Contract Monitor, DMS and the State, or its respective designees, to inspect the

same at all reasonable times pursuant to Chapter 119, Florida Statutes, and to make and take away copies thereof, pursuant to Chapter 119, Florida Statutes. If there is trade secret information that CONTRACTOR does not want disclosed during a public records request, it is CONTRACTOR's responsibility to provide an additional copy of the information with the trade secret information redacted.

## **11.2 Maintenance of Corporate Existence and Business**

CONTRACTOR and any subcontractors that assert corporate status must provide DMS conclusive evidence, per section 607.0127, Florida Statutes, of a certificate of status if a Florida corporation, or a certificate of authorization if a foreign corporation, obtained from the Florida Department of State per section 607.0128, Florida Statutes, not subject to any qualifications stated in the certificate, and maintain such status through the life of the contract. CONTRACTOR shall at all times maintain its corporate existence and authority to transact business and good standing in its jurisdiction of incorporation and the State of Florida. CONTRACTOR shall maintain all licenses, permits, and franchises necessary for its businesses where the failure to so maintain might have a material adverse effect on CONTRACTOR's ability to perform its obligations under this Contract. CONTRACTOR will provide this information to DMS, the On-Site Contract Monitor, or other authorized personnel as requested.

## **11.3 Transition Services**

**11.3.1** In connection with any termination, expiration, Partial Takeover, or assumption of temporary control under section 10, Default and Termination Provisions, of this Contract, CONTRACTOR agrees to work with DMS and/or FDC under DMS and/or FDC management supervision for a period of at least ninety (90) days to ensure an orderly and efficient transition from CONTRACTOR's management to DMS and/or FDC management (or management by a third party) of the Facility. During this transition period, CONTRACTOR will transfer all necessary records, files and documents for the operation of the Facility, including but not limited to inmate records, maintenance records, and personnel files.

**11.3.2** Transition services rendered before the termination date shall be provided by CONTRACTOR without any additional compensation. After the termination date, the price for transition services shall be negotiated between the parties at the time such services are requested. Notwithstanding anything to the contrary herein, if DMS terminates this Contract because of a breach by CONTRACTOR which is not timely cured, the transition services shall be provided at no cost to DMS.

**11.3.3** CONTRACTOR will not require any person working at the Facility to execute a restrictive covenant preventing that person from continuing to work for another vendor, FDC, or any other operator, at the Facility or another correctional facility upon the termination or expiration of this Contract.

## **11.4 Transition Plan**

The parties will begin working cooperatively on a detailed transition plan immediately upon the Effective Date of this Contract and shall include, at a minimum, the requirements described in Attachment Q – Project Management Plan Requirements. The transition plan shall be substantially completed by the Service Commencement Date and will be finalized within six months thereafter. The transition plan shall address all foreseeable scenarios in which services under this Contract would be transitioned to DMS, FDC, or an outside

vendor. The transition plan will be reviewed and updated by the parties when DMS deems appropriate.

## **11.5 Taxes, Liens and Assessments**

**11.5.1** CONTRACTOR shall: (i) pay, or make provision for payment of, all lawful taxes and assessments levied or assessed by the federal, state, or any local government on the Facility or any machinery, equipment or other property installed or located on the Facility by CONTRACTOR therein or thereon, or upon the Florida Correctional Finance Corporation with respect to the Facility or any part thereof, including any taxes levied upon, or with respect to, the income or revenues of the Florida Correctional Finance Corporation from the Facility, or upon any payments pursuant to the Lease Purchase Agreement; (ii) not create or suffer to be created any lien or charge upon the Facility or any part thereof; (iii) pay or cause to be discharged or make adequate provision to satisfy and discharge, within sixty (60) days after the same shall come into force, any lien or charge upon the Facility or any part thereof and all lawful claims or demand for labor, materials, supplies or other charges which, if unpaid, might be or become a lien upon the Facility or any part thereof, except permitted encumbrances, as defined in the Lease Purchase Agreement with respect to the Facility entered into by and between DMS and the Florida Correctional Finance Corporation; (iv) pay all utility charges, including "service charges", incurred or imposed with respect to the Facility; and (v) pay all State Fire Marshall fees imposed with respect to the Facility.

**11.5.2** The parties hereto acknowledge that the housing of state prisoners is a governmental function, albeit a function that can be contracted for with a private business. In addition, the parties hereto acknowledge that the use of a Lease Purchase Agreement utilizing tax-exempt financing for the construction of the Facility does not alter the nature of the use of the Facility. To that end, in the event that a local jurisdiction attempts to assess ad valorem taxes on the Facility, CONTRACTOR agrees to provide any necessary assistance, support, and expenditure of legal resources (including a pro rata share of all attorneys' fees and costs) in order to fully participate in and support any efforts by the State to defend the sovereign immunity from such taxation enjoyed by the Facility as State property, pursuant to Barnett v. Department of Management Services, 931 So. 2d 121 (Fla. 1st DCA 2006), review granted, 933 So. 2d 520 (Fla. 2006), review dismissed, 953 So. 2d 461 (Fla. 2007). DMS will pay 50% of all such attorneys' fees and costs. CONTRACTOR agrees to pay a pro rata share of the remaining 50% of attorneys' fees and costs, based on the proportion of the private prison facilities CONTRACTOR operates under contract with DMS to all private prison facilities under contract with DMS.

**11.5.3** In the event that either a judicial determination or a State legislative mandate explicitly subjects the Facility to ad valorem taxation or requires payment in lieu of taxes (PILOT), the amount of any such annual ad valorem tax or PILOT payment shall be deducted on a pro-rated monthly basis from CONTRACTOR's monthly compensation.

**11.6 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE)**

Section 946.515(6), Florida Statutes, requires the following statement to be included in the Contract: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this Contract shall be purchased from the corporation identified under Chapter 946, F.S. in the same manner and under the same procedures set forth in section 946.515(2) and (4), F.S.; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>

**11.7 Products Available from the Blind or Other Handicapped**

Section 413.036(3), Florida Statutes, requires the following statement to be included in the Contract: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this Contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>

**11.8 Lobbying and Integrity**

CONTRACTOR shall ensure compliance with section 11.062, Florida Statutes, and section 216.347, Florida Statutes. CONTRACTOR shall not, in connection with this or any other agreement with the State, directly or indirectly (i) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (ii) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (ii), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of DMS or FDC's Inspectors General, or other authorized State official, CONTRACTOR shall provide any type of information the Inspector General deems relevant to CONTRACTOR's integrity or responsibility. Such information may include, but shall not be limited to, CONTRACTOR's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. CONTRACTOR shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dlis.dos.state.fl.us/barm/genschedules/gensched.htm>).

**11.8.1** CONTRACTOR agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of CONTRACTOR'S compliance with the terms of this or any other agreement between CONTRACTOR and the State which results in the suspension or debarment of CONTRACTOR. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. CONTRACTOR shall not

be responsible for any costs of investigations that do not result in the CONTRACTOR's suspension or debarment.

#### **11.9 Copies of Documents**

Prior to the execution of this Contract and on an on-going basis, CONTRACTOR shall timely provide to DMS copies of the following documents:

**11.9.1** All original and renewed insurance certificates clearly indicating compliance with section 8.3, Insurance.

**11.9.2** Tax receipts or other appropriate documentation indicating CONTRACTOR's payments to the taxing authorities to indicate compliance with section 11.5, Taxes, Liens, and Assessments.

#### **11.10 Reimbursable Expenses**

In the event that CONTRACTOR fails to comply with section 11.2, Maintenance of Corporate Existence and Business, section 11.5, Taxes, Liens, and Assessments, and section 11.8, Lobbying and Integrity, CONTRACTOR shall pay actual expenses for DMS to employ an agent or for a Department employee to visit the offices of CONTRACTOR or the CONTRACTOR's parent corporation to make and take away copies of the documents necessary to comply with section 11.2, Maintenance of Corporate Existence and Business, section 11.5, Taxes, Liens, and Assessments, and section 11.8, Lobbying and Integrity.

#### **11.11 Invalidity and Severability**

In the event that any provision of this Contract shall be held to be invalid, such provision shall be null and void. The validity of the remaining provisions of the Contract shall not in any way be affected thereby.

#### **11.12 Counterparts**

This Contract may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which shall constitute one contract, notwithstanding that all parties are not signatories to the original or the same counterpart, or that signature pages from different counterparts are combined, and the signature of any party to any counterpart shall be deemed to be a signature to and may be appended to any other counterpart.

#### **11.13 Interpretation**

The headings contained in this Contract are for reference purposes only and shall not affect the meaning or interpretation of this Contract.

#### **11.14 Venue**

The Contract shall be interpreted under the laws of the State of Florida and Leon County Circuit Court shall be the venue in the event any action is filed on the Contract.

#### **11.15 Entire Agreement and Amendments**

The Contract Documents contain all the terms and conditions agreed upon by the parties hereto. No oral agreements or representations shall be valid or binding upon either party. The Contract Documents shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto.



**11.16 Third Party Rights**

Except as expressly provided herein, the provisions of this Contract are for the sole benefit of the parties hereto and shall not be construed as conferring any rights on any other person.

**11.17 Binding Nature**

This Contract shall not be binding upon the parties until it is approved and executed by both parties.

**11.18 Interpretation**

This Contract shall not be interpreted or construed against the drafting party.

**11.19 Prohibition against Assignment**

The Department of Management Services has entered into this Contract with CONTRACTOR based on, among other considerations, its assessment of the qualifications and experience of CONTRACTOR, the management talent of key employees of CONTRACTOR, and CONTRACTOR's organizational structure. Consequently, there shall be no assignment or transfer of the interest of CONTRACTOR, whether in whole or in part, absent the prior written consent of DMS. Further, CONTRACTOR shall notify DMS in writing as soon as is practical following (i) a merger with or an acquisition by any corporation, partnership, person, or other entity; (ii) the acquisition by or purchase of more than ten percent (10%) of the outstanding shares of CONTRACTOR by any corporation, partnership, person, or other entity; and (iii) a change in the senior management of CONTRACTOR, including its President, Chief Executive Officer, and the membership of its Board of Directors. If, in the reasonable judgment of DMS, any such event is determined to be likely to have a material and adverse effect on the ability of CONTRACTOR to fully comply with all of the terms and conditions of this Contract, DMS reserves the right to terminate the Contract without liability or penalty to DMS.

**11.20 Public Records**

**11.20.1** Access to Records. The Department of Management Services may unilaterally cancel this Contract for refusal by CONTRACTOR to allow public access to all documents, papers, letters, or other material made or received by CONTRACTOR in conjunction with the Contract, unless the records are exempt from section 24(a) of Article I of the State Constitution and section 119.07(1), Florida Statutes.

**11.20.2** Redacted Copies of Confidential Information. If the Contractor considers any portion of any documents, data, or records submitted to DMS to be confidential, proprietary, trade secret, or otherwise not subject to disclosure pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority, the Contractor must simultaneously provide DMS with a separate redacted copy of the information it claims as Confidential and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. This redacted copy shall contain the Contract name and number, and shall be clearly titled "Confidential." The redacted copy should only redact those portions of material that the Contractor claims is confidential, proprietary, trade secret, or otherwise not subject to disclosure.

- 11.20.3** Request for Redacted Information. In the event of a public records or other disclosure request pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority, to which documents that are marked as “Confidential” are responsive, DMS will provide the CONTRACTOR-redacted copies to the requestor. If a requestor asserts a right to the Confidential Information, DMS will notify the CONTRACTOR such an assertion has been made. It is the CONTRACTOR’S responsibility to assert that the information in question is exempt from disclosure under Chapter 119 or other applicable law. If DMS becomes subject to a demand for discovery or disclosure of the Confidential Information of the CONTRACTOR under legal process, DMS shall give the CONTRACTOR prompt notice of the demand prior to releasing the information labeled “Confidential” (unless otherwise prohibited by applicable law). CONTRACTOR shall be responsible for defending its determination that the redacted portions of its response are confidential, proprietary, trade secret, or otherwise not subject to disclosure.
- 11.20.4** Indemnification. CONTRACTOR shall protect, defend, and indemnify DMS for any and all claims arising from or relating to CONTRACTOR’s determination that the redacted portions of its response are confidential, proprietary, trade secret, or otherwise not subject to disclosure. If CONTRACTOR fails to submit a redacted copy of information it claims is Confidential, DMS is authorized to produce the entire documents, data, or records submitted to DMS in answer to a public records request or other lawful request for these records.
- 11.20.5** Contractor as Agent. If, under this contract, the CONTRACTOR is providing services and is acting on behalf of DMS as provided under section 119.011(2), Florida Statutes, the CONTRACTOR, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:
- 11.20.5.1** Keep and maintain public records that ordinarily and necessarily would be required by DMS in order to perform the service.
  - 11.20.5.2** Upon request from the public agency’s custodian of public records, provide DMS with a copy of the requested records or allow the records to be inspected or copied within reasonable time and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
  - 11.20.5.3** Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if CONTRACTOR does not transfer the records to DMS.
  - 11.20.5.4** Upon completion of the Contract, transfer, at no cost, to DMS all public records in possession of CONTRACTOR or keep and maintain public records required by the public agency to perform the service. If CONTRACTOR transfers all public records to the public agency upon completion of the Contract, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential

and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the Contract, CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of DMS.

**11.20.5.5 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS AND MAILING ADDRESS PROVIDED FOR THE CONTRACT MANAGER.**

**11.21** Convicted and Discriminatory Vendors. Pursuant to sections 287.133 and 287.134, Florida Statutes, the following restrictions are placed on the ability of persons placed on the convicted vendor list or the discriminatory vendor list.

**11.21.1** Convicted Vendors. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for CATEGORY TWO, for a period of thirty six (36) months following the date of being placed on the convicted vendor list.

**11.21.2** Discriminatory Vendors. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

**11.21.3** The CONTRACTOR shall notify DMS if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list or the discriminatory vendor list during the life of the Contract.

**11.21.4** The parties do not anticipate that any Intellectual Property will be developed as a result of this contract. However, any Intellectual Property developed as a result of this Contract will belong to and be the sole property of the party that develops it. This provision will survive the termination or expiration of this Contract.

#### **11.22 No Offshoring Affidavit**

Unless otherwise agreed in writing, the Contractor and its subcontractors will not perform any of the Services from outside of the United States, and the Contractor will not allow any State of Florida Data to be sent by any medium, transmitted or accessed outside of the United States. The Contractor agrees that a violation of items listed above will result in immediate and irreparable harm to DMS and will entitle DMS to a credit of \$50,000 per violation, with a total cap of \$500,000 per event. This credit is intended only to cover DMS' internal staffing and administrative costs as well as the diminished value of Services provided under the Contract and will not preclude DMS from recovering other damages it may suffer as a result of such violation. For purposes of determining the damages due hereunder, a group of violations relating to a common set of operative facts (e.g., same location, same time period, same off-shore entity) will be treated as a single event. A violation of this provision will also entitle DMS to recover damages, if any, arising from a breach of this section and constitutes an event of default. Notwithstanding any provision of this Contract to the contrary, the Contractor shall notify DMS as soon as possible and in all events within one (1) business day in the event it discovers any Data is breached, any unauthorized access of State of Florida Data occurs (even by persons or companies with authorized access for other purposes), any unauthorized transmission of Data or any credible allegation or suspicion of a material violation of the above. This notification is required whether the event affects one employee/retiree or the entire population. The notification shall be clear and conspicuous and include a description of the following: 1 – The incident in general terms; 2 – The type of personal information that was subject to the unauthorized access and acquisition; 3 – The number of individuals who were, or potentially have been affected by the breach; 4 – The actions taken by the Contractor to protect the data information from further unauthorized access. However, the description of those actions in the written notice may be general so as not to further increase the risk of severity of the breach. Upon becoming aware of an alleged security breach or security incident, the Contractor Security Officer shall set up a conference call with DMS' Contract Manager. The conference call invitation shall contain a brief description of the nature of the event. When possible, a thirty (30) minute notice shall be given to allow Department personnel to be available for the call. If the designated time is not practical for DMS, an alternate time for the call shall be scheduled. All available information shall be shared on the call. CONTRACTOR shall answer all questions based on information known at that time and shall answer additional questions as additional information becomes known. CONTRACTOR shall provide DMS with final documentation of the incident including all actions that took place. If CONTRACTOR becomes aware of a security breach or security incident outside of normal business hours, CONTRACTOR shall notify DMS' Contract Manager and in all events, within one (1) business day.

#### **11.23 Bills for Travel**

Bills for travel expenses, if permitted, must be submitted in accordance section 112.061, Florida Statutes. Bills for travel is applicable to the cost reimbursements identified in section 4.5, Privately Operated Institutions Inmate Welfare Trust Fund.

**11.24 Specific Appropriation**

The following is the specific state funds from which the state will make payment under the contract:

SECTION 4 – CRIMINAL JUSTICE AND CORRECTIONS;  
PROGRAM: SECURITY AND INSTITUTIONAL OPERATIONS;  
ADULT FEMALE CUSTODY OPERATIONS;  
626K SPECIAL CATEGORIES;  
PRIVATE PRISON OPERATIONS.

**11.25 Notices of Non-Compliance and Breach**

All notices shall be sent by DMS to the Warden of the Gadsden Correctional Facility and the designated CONTRACTOR point of contact by certified mail.

CONTRACTOR:

<Jane Doe>

<Insert vendor name>

<Insert vendor physical address>

Telephone: (850) XXX-XXXX