

OPERATIONS AND MANAGEMENT SERVICE CONTRACT
CORRECTIONAL FACILITY

This Contract is made and entered into on this ____ day of ____ 2012, by and between THE STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES, BUREAU OF PRIVATE PRISON MONITORING ("Department") and _____ ("CONTRACTOR").

WITNESSETH

Whereas, the Department is authorized under Chapter 957, Florida Statutes, to enter into a contract with a private entity for the operation, maintenance, and management of a secure correctional facility; and

Whereas, an Invitation to Negotiate # DMS 12/13-010 ("ITN") was issued on _____, 2012, by the Department in order to select a contractor to operate, maintain and manage a ____-bed _____ security level correctional facility located in _____ County, Florida.

Now, therefore, in consideration of the agreements contained herein, the parties agree as follows:

1. **DEFINITIONS.** The following terms used in this Contract shall, unless the context indicates otherwise, have the meaning set forth below.
 - 1.1. **ACA:** American Correctional Association.
 - 1.2. **ACA STANDARDS:** The Standards for Adult Correctional Institutions (Fourth Edition, 2003) published by ACA (as heretofore supplemented and as same may be modified, updated, or supplemented in the future).
 - 1.3. **AUTHORIZED REPRESENTATIVE:** The person designated in writing to act for and on behalf of a party of this Contract, which designation has been furnished to the other party hereto. In the case of CONTRACTOR, the Authorized Representative shall be designated in writing by its President or any Vice President. The designation of CONTRACTOR's initial Authorized Representative shall be delivered to the Department no later than the Effective Date of this Contract. CONTRACTOR's Authorized Representative may designate other persons to assist such Authorized Representative in the performance of certain obligations required by this Contract. In the case of the Department, the Bureau Chief is hereby designated as its Authorized Representative. At any time, either party may designate any person as its Authorized Representative by delivering to the other party a written designation signed, if on behalf of CONTRACTOR by its President or Vice President, or if on behalf of the Department by the Bureau Chief. Such designations shall remain effective until new written instruments are filed with or actual notice is given to the other party that such designations have been revoked.
 - 1.4. **BREACH OF CONTRACT:** Any of the events or circumstances described in Section 11.
 - 1.5. **BUREAU:** The Florida Department of Management Services, Bureau of Private Prison Monitoring.
 - 1.6. **CMA:** The Correctional Medical Authority.

- 1.7. **CONTRACT**: This Contract, together with all attachments, exhibits, amendments, and modifications entered into between the Department and CONTRACTOR.
- 1.8. **CONTRACT ADMINISTRATOR**: The Department employee who is primarily responsible for maintaining the official contract file. As of the Effective Date of the Contract, the Contract Administrator is Lori Anderson, 4050 Esplanade Way, Suite 280, Tallahassee, Florida 32399. The Department may appoint a different Contract Administrator, which shall not constitute an amendment to the Contract, by sending notice to CONTRACTOR.
- 1.9. **CONTRACT DOCUMENTS**: means this Contract, the Exhibits, together with the ITN, and sections ____ of CONTRACTOR's response thereto (attached hereto), all of which documents are incorporated by reference as if fully set forth herein. Among the Contract Documents, the following order of authority shall apply: (i) this Contract with its Exhibits; (ii) the ITN; and (iii) the CONTRACTOR'S response thereto.
- 1.10. **CONTRACT MANAGER**: The Department employee who is primarily responsible for management and oversight of the Contract and evaluation of CONTRACTOR's performance of its duties and obligations pursuant to the terms of the Contract. The Contract Manager is currently Michael Weber. The Department may appoint a different Contract Manager, which shall not constitute an amendment to the Contract, by sending notice to CONTRACTOR. Any communication to the Department relating to the Contract shall be addressed to the Contract Manager.
- 1.11. **CONTRACTOR**: The firm awarded this Contract to operate and manage the Facility. The Contractor for this Contract is _____. 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.
- 1.12. **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.
- 1.13. **DAY**: A calendar day.
- 1.14. **DC**: The Florida Department of Corrections.
- 1.15. **DCF**: The Florida Department of Children and Families.
- 1.16. **DEPARTMENT OR DMS**: The Florida Department of Management Services.
- 1.17. **DOE**: The Florida Department of Education.
- 1.18. **DOH**: The Florida Department of Health.
- 1.19. **EFFECTIVE DATE**: The date this Contract is made and entered as set forth at the beginning of this Contract. The parties will use the time between the Effective Date and the Service Commencement Date in accordance with Section 3.
- 1.20. **FACILITY**: The ____-bed _____ custody secure correctional facility located in _____ County, Florida, and designed and constructed for the detention of _____

minimum/medium/close custody inmates. Further expansion of this Facility may be authorized by the Department. In the event further expansion of the Facility occurs, per diem and other adjustments will be made upon mutual agreement of the parties.

- 1.21. **FDLE**: The Florida Department of Law Enforcement.
- 1.22. **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.
- 1.23. **GAAP**: Generally Accepted Accounting Principles.
- 1.24. **HSB**: DC's Health Service Bulletins and Technical Instructions.
- 1.25. **INMATE**: Any person assigned by DC to be housed at the Facility.
- 1.26. **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.
- 1.27. **ITN**: The "Invitation to Negotiate" referenced in the Whereas clause above, together with any attachments or amendments.
- 1.28. **LEASED FURNISHINGS AND EQUIPMENT**: The items of personal property as described in Section 4.2 leased to the Department pursuant to the terms and provisions of the Lease Purchase Agreement.
- 1.29. **LEASE PURCHASE AGREEMENT**: the Amended and Restated Lease Agreement between the Department and the Florida Correctional Finance Corporation dated _____ with Option to Purchase funding mechanism employed to fund the Facility.
- 1.30. **OIG**: Department of Corrections Office of the Inspector General.
- 1.31. **OPPAGA**: The Office of Program Policy Analysis and Government Accountability.
- 1.32. **ON-SITE CONTRACT MONITOR**: The employee or employees of the Department designated to monitor the operation of the Facility for contract compliance and to coordinate actions and communications between the DMS and CONTRACTOR.
- 1.33. **OSHA**: The Occupational Safety & Health Administration.
- 1.34. **PER DIEM RATE/"BLENDED"**: The cost charged per inmate, per inmate day for the delivery of operation and management services at the Facility.
- 1.35. **PRIVATELY OPERATED INSTITUTION INMATE WELFARE TRUST FUND (POIITWF)**: A trust fund account maintained by DC 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.
- 1.36. **SEC**: The Securities and Exchange Commission

- 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 _____, 2013.
- 1.38. **STATE**: The State of Florida, including the Florida Department of Management Services or any other state government entity referenced therein. These terms may be used interchangeably.
- 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 the Department 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**: The Transfer Agreement between the Department, CONTRACTOR, and the Florida Department of Corrections (the DC) which establishes guidelines for transfer of inmates between the Facility and facilities operated by the DC.
- 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.

2. SCOPE OF WORK

- 2.1. The purpose of this Contract is to establish the terms and conditions under which CONTRACTOR shall operate and manage the Facility.

3. TERM OF THE CONTRACT; TRANSITION PERIOD; REPRESENTATIONS

- 3.1. **TERM**. This Contract shall commence at 12:01 a.m. on the Service Commencement Date and terminate on _____, 2016 (i.e., three years after the Service Commencement Date), unless terminated earlier pursuant to Section 11 of this Contract. Upon mutual agreement, the parties may renew the Contract, in whole or in part, for successive two (2) year periods thereafter. Any renewal shall specify the renewal price, as set forth in the ITN response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.
- 3.2. **COMMENCEMENT OF SERVICES**. CONTRACTOR'S obligation to provide services under this Contract, and the Department's obligation to pay for those services, shall begin on the Service Commencement Date.
- 3.3. **TRANSITION PERIOD**. If CONTRACTOR is not the same company that currently operates and maintains the Facility, the following provisions shall apply:
- 3.3.1. Within three (3) days of the Effective Date, CONTRACTOR shall meet with the Department 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.

- 3.3.2. 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 the Department, 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.
- 3.4. **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:
 - 3.4.1. **Authorization.** This Contract has been duly authorized, executed, and delivered by the Department and, assuming due execution and delivery by the Department constitutes a legal, valid, and binding agreement enforceable against the Department in accordance with its terms, subject to Sections 3.4.3 and 11.9.1.
 - 3.4.2. **Disclosure.** There is no material fact which materially and adversely affects or in the future will (so far as the Department can now reasonably foresee) materially and adversely affect the Department'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 CONTRACTOR prior to the date hereof.
 - 3.4.3. **Statutory Contingency.** The State's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Florida 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), Florida Statutes.
- 3.5. **REPRESENTATIONS OF CONTRACTOR.** CONTRACTOR represents and warrants to and for the benefit of the Department, with the intent that the Department will rely thereon for purposes of entering into this Contract, as follows:
 - 3.5.1. **Organization and Qualification.** CONTRACTOR has been duly incorporated and validly exists 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.
 - 3.5.2. **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.
 - 3.5.3. **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.

- 3.5.4. Compliance with Laws. Neither CONTRACTOR nor its officers and directors purporting to act on behalf of CONTRACTOR have been advised, and have no reason to believe, that CONTRACTOR or such officers and directors have not been conducting business in compliance with all applicable laws, rules, and regulations of the jurisdictions in which CONTRACTOR is conducting business including 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.
- 3.5.5. Scrutinized Companies. Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to section 287.135(5), F.S., CONTRACTOR agrees the Department may immediately terminate this contract for cause if CONTRACTOR is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the contract.
- 3.5.6. No Litigation. Except as previously disclosed in writing to the Department, there is not now pending nor, to the knowledge of CONTRACTOR, threatened, any 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.
- 3.5.7. 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.
- 3.5.8. Financial Statements. CONTRACTOR has delivered, or will deliver, to the Department copies of the following financial statements with all sub schedules and footnotes: a balance sheet, profit and loss statement, and a change in financial position schedule for each of the prior three (3) years. Such financial statements fairly present the financial position of CONTRACTOR at the date shown and the results of its operations for the periods covered, and have been prepared in conformity with generally accepted accounting principles applied on a consistent basis, except as discussed in the notes to the financial statements.

- 3.5.9. No Adverse Change. Since the date of CONTRACTOR's most recent balance sheet provided to the Department, there has not been any material adverse change in CONTRACTOR's business or condition, nor has there been any change in the assets or liabilities or financial condition of CONTRACTOR from that reflected in such balance sheet which is material to CONTRACTOR's ability to perform its obligations under this Contract.
- 3.5.10. Disclosure. 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 the Department prior to the date hereof. Failure to disclose such material facts, as described above, is grounds for termination for false representation.

4. POSSESSION OF THE FACILITY AND INVENTORY

- 4.1. **POSSESSION OF FACILITY**. On the Service Commencement Date, the Department 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 the Department and other appropriate parties (including, but not limited to, OPPAGA, DC, CMA, DOH, OSHA, DCF, Legislative staff) to enter and/or inspect the Facility, programs, health services, food services and its grounds pursuant to Section 4.10. The design of the Facility will be owned by the State of Florida.
- 4.2. **POSSESSION OF LEASED FURNISHINGS AND EQUIPMENT**. On the Service Commencement Date, the Department 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 Sections 4.5. CONTRACTOR will provide a list of all property and the designated ownership upon Service Commencement Date (See Exhibit A – Fixtures, Furnishings & Equipment Inventory).
- 4.3. **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 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 Agreement. 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 and items 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 FF&E items purchased with POITWF will be inventoried and labeled as State property and also identified as "IWTF". 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 an MS Excel format. The inventory/asset management system/database should allow features to be captured, inventory verification and detailed reports that can be exported to MS 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.

- 4.4. **REPLACEMENT OF INVENTORY.** CONTRACTOR, subject only to the facility furnishings, fixtures, and equipment covered by the "major maintenance and repair reserve fund" as described in Sections 4.2 and 4.9, shall replace within sixty (60) days of the date of discovery of loss, theft, damage or inoperability beyond repair with new equipment having like functional ability, life expectancy and quality of the 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 the Department and in compliance the DMS's Property Asset Management (PAM) policy. Additional information on PAM is available at DMS's website.
- 4.5. **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 the ITN. 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 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.
- 4.6. **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:
- 4.6.1. Sanitation and hygiene will be maintained at a minimum, at a level equivalent to the level of DC 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 accepted. The yards will be free of all trash. All kitchen equipment and utensils shall be free of grease build-up.

- 4.6.2. CONTRACTOR will inspect all areas of the Facility daily for cleanliness and shall provide documentation of such inspections to the On-Site Contract Monitor.
- 4.6.3. Lighting, ventilation and heating equipment shall be functioning at all times.
- 4.6.4. No fire, safety or health hazards shall exist.
- 4.6.5. All plumbing equipment, including toilets, sinks, and showers shall be operating properly at all times.
- 4.6.6. All hazardous chemicals shall be inventoried, stored and maintained in accordance with OSHA's policy and procedures and DC policy and procedure. Inventories and inspection documentation shall be made available to the On-Site Contract Monitor as requested.
- 4.6.7. Food service areas shall be clean and in compliance with applicable state health regulations and DC policy and procedure.
- 4.6.8. Copies of all inspection reports, including internal and reports from governing agencies, will be submitted to the On-Site Contract Monitor. Corrective Action Plans 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.
- 4.7. **UTILITIES.** CONTRACTOR shall be responsible for the timely payment of all utility bills for the Facility. Copies of utility bills shall be made available to the On-Site Contract Monitor upon request.
- 4.8. **MAINTENANCE.** 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 DC policy and procedure and Section 4.9, including all maintenance related to structural conditions or defects as well as ordinary routine maintenance adhering to the 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 the Department's inspections. All such replacements and renewals shall thereupon 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 in a report by the 15th of each month. During the term of this Contract, the Department shall have no responsibility, financial or otherwise, with respect to maintenance of the Facility other than that explicitly provided under Section 4.9. The responsibility for maintenance of the Facility shall be the sole responsibility of CONTRACTOR except as provided under Section 4.9.

- 4.8.1. The maintenance plan shall include the following:
- 4.8.1.1. Plant equipment;
 - 4.8.1.2. Structural maintenance; and
 - 4.8.1.3. Vehicle preventive maintenance programs.
- 4.9. **MAJOR MAINTENANCE AND REPAIR RESERVE FUND.** CONTRACTOR shall make and be responsible for all routine and necessary repairs of the Facility, and repairs/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. The Department may request an analysis of any proposed maintenance or repair request proposed by the CONTRACTOR; any such costs will be borne by the CONTRACTOR and are not reimbursable. On the first day of each month, the Department will deduct \$_____ 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 the DC 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 the Department's Major Maintenance and Repair Fund policy #08-101 for all requests for reimbursement.
- 4.10. **ACCESS TO THE FACILITY.** The On-Site Contract Monitor, the Contract Manager, all DC representatives, or other designated representatives from the Department 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, the OPPAGA, DOH, CMA, etc.), shall have full access to inmates, staff, and all areas of the Facility at all times, with or without notice. 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.
- 4.11. **EXPANSION/RENOVATIONS.** Subject to the prior written approval of the Department, 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 by CONTRACTOR, and the same shall become part of the Facility. Minor alterations may be done at CONTRACTOR's expense without prior approval from the Department. 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. 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.

4.12. **MATERIAL DAMAGE OR LOSS.** Promptly after the occurrence of any damage to or loss at the Facility that materially affects the continued operation of the Facility; CONTRACTOR shall notify the Department of such loss or damage. 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, repairing or restoring is practicable and desirable, CONTRACTOR shall forthwith proceed with such rebuilding, repair or restoration. Upon the completion thereof, 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, repairing or restoring. 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 is responsible for payments due in excess of insurance proceeds received. If the Department and CONTRACTOR determine, in writing, that repairing, 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.

4.13. **VEHICLES.** CONTRACTOR shall purchase and provide all vehicles required for the operation and maintenance 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, repair records, etc. shall be provided to the On-Site Contract Monitor monthly.

5. OPERATION OF THE FACILITY

5.1. GENERAL DUTIES.

5.1.1. 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 DC rules and procedures, whether now in effect or hereafter effected or implemented, and in accordance with the operational 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. 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.

5.1.2. Pursuant to Chapter 957.04(1)(e), Florida Statutes, CONTRACTOR may propose a waiver of a particular DC 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.

- 5.2. **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 Sections 5.3 through 5.8.
- 5.3. **MAINTENANCE AND OPERATION OF FUNDS.** CONTRACTOR shall maintain operating its books and records in accordance with generally accepted accounting principles (GAAP) determined by the Governmental Accounting Standards Board, 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
- 5.4. **OPERATION OF INMATE BANK.** CONTRACTOR shall maintain Inmate Bank funds separate and apart from other funds and to abide by DC rules, policy and procedures regarding the same.
- 5.5. **PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND (POIIWTF).**
 - 5.5.1. 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.
 - 5.5.2. By May 1 of each year, CONTRACTOR must submit an application for expenditures to be made from the Privately Operated Institutions Inmate Welfare Trust Fund (POIIWTF) for the next fiscal year to the Department for review. In accordance with 60AA-203.101, Florida Administrative Code, planned expenditures must cover expenses for unique and innovative programs or items or activities for the inmates at the Facility. Proposed additional expenditures for contractually required programs will not be authorized.
 - 5.5.3. CONTRACTOR must compile a report that documents the actual receipts and expenditures from this trust fund for the previous fiscal year, beginning July 1 and ending June 30, and provide such to the Department. This report is due by July 30 each year for the fiscal year previous.
 - 5.5.4. 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 the Department. Expenditures made from the POIIWTF shall not include items included in CONTRACTOR's response to the ITN.
 - 5.5.5. CONTRACTOR shall ensure proper accounting and internal control of the receipts and expenditures of the funds from the POIIWTF.

5.5.6. CONTRACTOR will send to the Department a monthly report by the 12th of the month the details of deposits and expenditures to the POIWTF. This report should include the deposits and expenditures made from the commissary account.

5.6. **INMATE COMMISSARY ACCOUNT AND VENDING SERVICES.**

5.6.1. 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 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 is 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 should only be those items allowed in FAC 33-602.201 Appendix 1 and only in the possession quantities specified.

Due to frequent transfers of inmates between private and state-run facilities, all items sold (e.g. MP3 player and music, etc.) must be of similar value, appearance and compatible to those sold in state run commissaries.

5.6.2. 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 the DC and deposited monthly in the Privately Operated Institutions Inmate Welfare Trust Fund (POIWTF). CONTRACTOR shall provide a monthly statement to the On-Site Contract Monitor to include all deposits, withdrawals, and interest earned in the account.

5.6.3. CONTRACTOR shall make expenditures from the Commissary Account, to purchase items for resale in the commissary and for other items as contemplated in 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.

5.7. **AUDITING OF THE COMMISSARY AND INMATE BANK ACCOUNTS.** CONTRACTOR shall ensure proper accounting and internal control of the receipts and expenditures of the funds from the Commissary Account and the Inmate Bank Account. CONTRACTOR shall have an independent audit of these fund conducted on an annual basis and the entire results of the audit will be submitted to the Department. The yearly report is due July 31 each year for the previous year.

5.8. **FINANCIAL REPORTING.**

5.8.1. Audited annual financial statement, for the fiscal year of July 1 to June 30 and each fiscal year thereafter, prepared in accordance with GAAP and clearly distinguishing Inmate Bank and Commissary Account shall be filed not later than October 1st of each year.

5.8.2. Monthly statements shall also be prepared and delivered as follows:

5.8.2.1. Inmate Bank Fund: Accounting of the Inmate Bank fund, including a spread sheet showing all account actions for the relevant time period for each account and the balance if any at the time of submission of the

statement. This report is due monthly by the 12th day of the month or the first business day thereafter;

5.8.2.2. Commissary Account: A statement of revenues, expenses, and statement of budgeted and actual expenditures (detailed by object code). This report is due by the 12th of the month or the first business day thereafter.

5.9. **SEC RECORDS.** CONTRACTOR shall, within thirty (30) days of receipt, provide the Department with copies of all annual reports on Form 10 K, quarterly reports on Form 10 Q and reports on Form 8-K required to be filed by CONTRACTOR with the Securities and Exchange Commission. Prior to the execution of this Contract, CONTRACTOR shall provide the Department with its most recent FILES Form 10-K and any Form 10-Qs or Form 8-Ks.

5.10. **DC FORMS.** CONTRACTOR will use official DC forms. A list of DC forms is available from the DC Intranet.

5.11. **AMERICAN CORRECTIONAL ASSOCIATION ACCREDITATION.** CONTRACTOR shall maintain ACA Accreditation pursuant to and in accordance with the terms of Chapter 957.04(1)(c).

5.12. **OPERATIONS PLAN.** As a condition precedent to commencement of services hereunder and prior to the Service Commencement Date, CONTRACTOR shall provide the Department, for the Department's written approval, an Operational Plan that covers the full range of Facility operations including, but not limited to, the following a policy and operations manual that incorporates all DC rules, policy and procedures and HSB which shall cover:

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5.12.1. 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, 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.;

5.12.2. 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;

5.12.3. 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;

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5.12.4. Procedures for assumption of operations by the Department or the DC in the event of CONTRACTOR's bankruptcy or inability to perform its duties hereunder;

5.12.5. An emergency procedures/security manual for confidential use by staff supervisors employed by CONTRACTOR;

5.12.6. Post Orders for all Facility security staff positions in accordance with DC's policy, procedures and post orders. All post orders must be submitted and approved by the

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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;

5.12.7. 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 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 for review and approval in writing by the Contract Manager. Revisions must be approved prior to implementation. [Exhibit ___ to be provided by the CONTRACTOR] of the Operations and Management Contract will include a chart documenting all the positions, job codes and minimum/maximum salaries. This Exhibit must be updated as needed and approved by the Contract Manager in writing. This Exhibit 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.**

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~~5.12.7.~~ **5.12.8.** 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.

~~5.12.9.~~ **5.12.9.** CONTRACTOR shall notify the Department in writing of desired changes in, or additions to, the Operational 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 Operational Plan shall be regarded as a material breach of **this Agreement Contract.**

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5.13. CLASSIFICATION AND ASSIGNMENT OF INMATES.

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

5.13.2. Beginning on the Service Commencement Date, inmates will be assigned to the Facility by the DC at a rate not to exceed capacity of the Facility in accordance with the following:

5.13.2.1. The inmates transferred by the DC shall: represent a cross section of the inmate population; have completed the initial classification process at a DC 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 the DC to the Facility within ten (10) days of receipt of the inmate, in compliance with Chapter 33, Florida Administrative Code.

5.13.2.1.1. 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 DC 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 DC facility pursuant to Section 5.15.

5.13.2.1.2. 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.**

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5.14. **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 the DC.

5.15. **TRANSFER OF INMATES.**

5.15.1. In accordance with DC policy and procedure and the 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.

5.15.2. 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 the DC by the nature of the request or its urgency. DC shall have the final decision making authority relating to non-routine transports.

- 5.15.3. CONTRACTOR may request, in writing, that an inmate be transferred from the Facility in accordance with DC policy and procedure and the Transfer Agreement. The Department, CONTRACTOR, and the DC shall comply with the terms of a Transfer Agreement when transferring inmates between a correctional facility operated by the DC and a private correctional facility. The Transfer Agreement (Exhibit B to this Contract) will be executed in conjunction with the execution of this Contract.
- 5.16. **RELEASE OF INMATES.** CONTRACTOR will release inmates in compliance with the DC'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 the DC 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.
- 5.17. **TRANSPORTATION OF INMATES.** CONTRACTOR shall not be responsible for inmate transportation from the DC to the Facility or from the Facility to the inmate's destination upon transfer except as provided for in Section 5.15.2. CONTRACTOR will be responsible for transporting inmates to the hospital or outside medical appointments, and will be responsible for discharge transportation in compliance with Rules 33--601.503 F.A.C., "Discharge Transportation".
- 5.18. **INMATE DISCIPLINE.** CONTRACTOR will administer the system of inmate rules and disciplinary procedures in compliance with DC policy and procedures, Florida Statutes, and Florida Administrative Codes. Rules of Prohibitive Conduct and Penalties for Infractions are to be consistent with those imposed by the DC.
- 5.19. **INMATE VISITATION.**
- 5.19.1. CONTRACTOR shall provide all space, furniture, equipment, and supervision necessary to implement a visitation program in compliance with the Florida Administrative Code and DC policy and procedure. Contact visitation will be provided as determined by an inmate's custody level and disciplinary status.
- 5.19.2. CONTRACTOR will provide space, equipment and supervision necessary for inmate visiting with children.
- 5.19.3. The DC 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.

- 5.20. **DRUG TESTING**. CONTRACTOR shall conduct a random drug testing program consistent with DC's policy and procedures. The DC 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 the DC within three days of receiving the test results.
- 5.21. **INMATE MAIL AND TELEPHONE**.
- 5.21.1. CONTRACTOR will provide mail services in compliance with DC policy and procedure, Florida Statutes and Florida Administrative Code.
- 5.21.2. CONTRACTOR will provide telephone services and rates identical to those provided at DC institutions. - As required by section 945.215, Florida Statutes, net receipts from telephone commissions shall be sent to the DC and deposited monthly in the POIITWF. 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 inmate's telephone calls, including remote access by the DC's Inspector General. CONTRACTOR shall comply with all state, federal and local laws, including the DC's rules, policies and procedures regarding inmate access to telephones found in Chapter 33, Florida Administrative Code.
- 5.21.3. 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 POIITWF.
- 5.22. **USE OF FORCE**. CONTRACTOR will administer use of force in compliance with DC policy and procedure, Florida Statutes, and Florida Administrative Codes.
- 5.23. **INMATE PERSONAL PROPERTY**. CONTRACTOR shall manage inmate personal property in compliance with DC 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.
- 5.24. **INMATE GRIEVANCE PROCEDURE**. CONTRACTOR will follow all DC rules and procedures for inmate grievances; Chapter 33-103 Inmate Grievances. CONTRACTOR shall adhere to and utilize the DC's inmate grievance system. CONTRACTOR will implement any changes to the inmate grievance system initiated by the DC. Monthly reports must be submitted to the Department regarding all inmate grievances no later than the 20th of the following month.
- 5.25. **SENTENCE COMPUTATION**. CONTRACTOR shall provide the DC with data and information relating to sentence computation. The decision with respect to sentence computation rests with the DC. CONTRACTOR shall forward any court ordered sentence modifications (received via any source) to the Bureau of Sentence Structure and Population Management upon receipt.

5.26. **GAIN TIME, CHANGE OF CUSTODY AND FURLOUGHS.** CONTRACTOR will provide specific information to the DC regarding the award or forfeiture of gain time, change of custody or granting furloughs. The decision for such rests with the DC.

5.27. **RIGHTS, DUTIES, AND RESPONSIBILITIES RELATED TO DC'S OFFICE OF THE INSPECTOR GENERAL, ACCESS, COOPERATION, INVESTIGATION, AUDIT, REVIEW, OR INSPECTION.**

- 5.27.1. CONTRACTOR shall permit full and immediate access to the DC'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. CONTRACTOR shall not deny, delay, obstruct, or otherwise restrict OIG access to any inmate, staff, volunteer, physical area of the correctional facility, or any conveyance that transports inmates.
- 5.27.2. 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.
- 5.27.3. 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, intrusion prevention systems, and external and internal security scans of these resources.
- 5.27.4. CONTRACTOR shall provide to the OIG any and all operating system logs generated by mainframes, servers, clients, and network devices, as requested.
- 5.27.5. 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.
- 5.27.6. 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 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 the DC or any other local, state, or federal law enforcement or correctional agency.
- 5.27.7. CONTRACTOR shall adhere to all applicable provisions of DC Procedure 108.003: Investigative Process.
- 5.27.8. 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.

5.28. SECURITY.

- 5.28.1. Execution of MOA. CONTRACTOR shall execute a Memorandum of Agreement (MOA) (Exhibit C) for emergency response assistance by DC. Training costs and response costs incurred by DC will be reimbursed by CONTRACTOR, as stated in the MOA.
- 5.28.2. 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 the DC's Security procedures, unless otherwise waived pursuant to Statute 957.04-3(e).
- 5.28.3. Body Alarms: Pursuant to the DC policy and procedures. .
- 5.28.4. Emergency Plans: CONTRACTOR shall establish detailed emergency plans in accordance with DC policy and procedure and that address the items enumerated below. Plans will be provided to the Department for review and approval and shall be updated annually in consultation with the DC Security Operations Bureau. The emergency plans shall address the following:
 - 5.28.4.1. Assault From Outside or Terrorist Activities
 - 5.28.4.2. Bomb Threat
 - 5.28.4.3. Escape
 - 5.28.4.4. Evacuation
 - 5.28.4.5. Fire
 - 5.28.4.6. Hostage
 - 5.28.4.7. Riot or Disorder
 - 5.28.4.8. Hazardous Material
 - 5.28.4.9. Medical Emergencies or Epidemics
 - 5.28.4.10. Employee Strike Plan
 - 5.28.4.11. Natural Disaster
 - 5.28.4.12. Coordination with Local Agencies and DC for Emergency Assistance
- 5.28.5. Emergency Squads: CONTRACTOR shall establish and maintain emergency squads in accordance with DC policy and procedure to appropriately address any facility or staff disturbance, including those enumerated in Section 5.28.4. 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 the DC Emergency Teams as defined in the Memorandum of Agreement (Exhibit C).

5.28.6. Security Staff Utilization: CONTRACTOR shall develop and implement Security staff utilization in accordance with DC policy and procedure that includes, but is not limited to the following:

- 5.28.6.1. 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.
- 5.28.6.2. A detailed Security Post Chart outlining how key functions/duties will be staffed.
- 5.28.6.3. How Medical Escort and Transfer for out-patient and in-patient treatment will be handled; how coverage will be provided for inmates who are in-patients at hospitals; and how the responsibility of transporting or transferring inmates to other facilities will be handled 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 DC rules, policy and procedures.
- 5.28.6.4. A recap of the Security Post Chart by total number of staff, to include rank, number of days each post is covered and corresponding relief.
- 5.28.6.5. A detailed explanation and written example of how the relief factor for posts are calculated and arrived at to generate the total number of security positions.
- 5.28.6.6. 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 ~~140~~140 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.
- 5.28.6.7. Post Orders detailing and indicating the key duties and responsibilities for each security post/function identified on the proposed Security Post Chart.

5.29. **RADIO SYSTEMS (LOCAL AND STATE LAW ENFORCEMENT RADIO SYSTEM (SLERS))**. Radio Equipment: 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 4.8

5.30. **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 the DC in comparable facilities.

5.30.1. 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.

5.30.1.1. **Master Menu:**

5.30.1.1.1. The DC 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.

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

5.30.1.2. **Delivery of Food:**

5.30.1.2.1. **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 the Department. This will include blind feeding where the inmate serving the food is not able to see the inmate receiving the tray.

5.30.1.2.2. **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.

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

5.30.1.2.4. **Therapeutic Diets** CONTRACTOR shall prepare all therapeutic diets in accordance with Florida Administrative Code and DC 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 monthly report.

5.30.1.3. **Religious Diets/Alternate Entrée:** The CONTRACTOR shall approve and facilitate religious diets in accordance with Florida Administrative Code and DC 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 entree. Additional documentation may be required upon review of the monthly report.

- 5.30.1.4. 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.
- 5.30.1.5. 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 DC policy and procedure, Florida Statutes and Florida Administrative Codes. CONTRACTOR shall develop and implement a written plan for sanitation and rodent control which includes all kitchen/dining space, appliances, supplies and equipment in accordance with Florida Administrative Code, DC policy and procedure.
- 5.30.1.6. CONTRACTOR shall develop a preventive maintenance schedule 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 DC policy and procedure and Section 4.8.
- 5.30.1.7. All foods and/or condiments of a high security risk shall be locked in a controlled environment in accordance with DC policy and procedure.

5.31. HEALTH CARE SERVICES.

- 5.31.1. 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 DC policy and procedures, health service bulletins/technical instructions (HSB), Florida Statutes, and Florida Administrative Codes. No deviations from the minimum service requirements shall be permitted. CONTRACTOR must follow the most current version of DC terminology, policy and procedures and health services bulletins. DC's Office of Health Services (OHS) will be provided an opportunity to comment and suggest recommended changes to CONTRACTOR'S Health Care Services Plan.
- 5.31.2. 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, infirmiry mattresses (including SOS mattresses) if applicable and other infirmiry-infirmiry supplies (if applicable) and emergency room supplies, and both urgent and emergency medical transportation. (Note: Medical linens typically include sheets, pillow cases, cotton blankets, draw sheets, cloth bed pads, patient pajamas and/or gowns, turning pads, towels and wash cloths. Infirmiry 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

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resistant to being torn into strips. These differ from the inmate housing unit mattresses and pillows.)

5.31.3. CONTRACTOR shall utilize hospitals with a secure prison ward or provide sufficient security in accordance with DC policy and procedures addressing security coverage and requirements to ensure the safety of hospital staff and the public

5.31.4. Pursuant to section 945.6031(2), Florida Statutes, the Facility shall be subject to comprehensive surveys by State of Florida Correctional Medical Authority (CMA) of the dental, physical, and mental health care systems at least triennially (at least once every three years). CONTRACTOR shall designate a Chief Health Officer (CHO) for the Facility who shall submit reports to the DC (and the Assistant Secretary of the Office of Health Services, as required) for all clinical matters.

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

5.31.5.1. 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, Department of Corrections' rules, policy and procedures, and health services' bulletins (HSB's) 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, the DC, and the Department shall work cooperatively to ensure service delivery in complete compliance with all such requirements. CONTRACTOR shall stand in the place of the DC for purposes of the referenced statutes.

5.31.5.2. Inpatient hospitalization costs:

5.31.5.2.1. CONTRACTOR shall be responsible for all medical costs.

5.31.5.2.2. If, in the opinion of the on-site Chief Health Officer ("the 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.

5.31.5.2.3. CONTRACTOR shall be responsible for providing security for any inmate admitted to a hospital. CONTRACTOR shall notify the Department and the DC as soon as possible (within two (2) hours) any time an inmate is admitted to a hospital. To assist CONTRACTOR in minimizing security costs, CONTRACTOR may

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utilize services available at DC's Reception and Medical Center (RMC) hospital in Lake Butler, Florida in all appropriate cases contingent upon space availability.

- 5.31.5.2.4. All hospitals utilized by CONTRACTOR for the care of inmates shall be fully licensed and preferably accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHCO).
- 5.31.5.2.5. CONTRACTOR shall comply with the Health Insurance Portability and Accountability Act of 1996 (42 U. S. C. §1320d-8), and all applicable regulations promulgated hereunder.
- 5.31.5.2.6. The DC shall not provide any administrative functions or office support for CONTRACTOR (e.g., clerical assistance, office supplies, copiers, fax machines and preparation of documents). 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. CONTRACTOR shall operate the space provided in an energy efficient manner.
- 5.31.5.2.7. All supplies required to provide healthcare services shall be provided by CONTRACTOR. CONTRACTOR will have at least a thirty (30) days' supply of medical 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 the Department chooses to purchase the existing supplies. 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).
- 5.31.5.2.8. CONTRACTOR shall utilize DC forms as specified to carry out the provisions of this Contract.
- 5.31.5.3. 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 abusers 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 the DC'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 the Transfer Agreement.

- 5.31.5.4. 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 the Department. All co-payments must be noted in the Offender Based Information System 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 shall not include the revenue generated by the inmate co-payment.
- 5.31.5.5. Chief Health Officer (CHO): CONTRACTOR shall designate a CHO for the Facility who shall submit reports to the DC (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; DC 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 of 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 the DC. 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.
- 5.31.5.6. Health Education Program CONTRACTOR shall implement, subject to Department approval, an inmate health education program in accordance with the HSB.
- 5.31.5.6.1. An infectious disease education program for inmates in accordance with the DC's existing health education program for HIV and AIDS

as described in section 945.35, Florida Statutes and DC policy, procedures and HSBs.

- 5.31.5.7. Quality Management: CONTRACTOR shall establish and maintain a Clinical Quality Management program that maintains full compliance with the DC's rules, policy and procedures and HSBs.
- 5.31.5.8. Health Assessment at Intake: CONTRACTOR shall provide a comprehensive health assessment and orientation in accordance with DC's policy, procedures and health service bulletins for each inmate assigned to the facility.
- 5.31.5.9. Referrals: CONTRACTOR shall be financially responsible for all costs associated with the care of an Inmate treated by any community provider or in any community provider facility.
- 5.31.5.10. Staffing of Health Care Professionals:
 - 5.31.5.10.1. 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.
 - 5.31.5.10.2. CONTRACTOR shall maintain an adequate level of staffing for provision of the services outlined herein 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.
 - 5.31.5.10.3. 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 the DC'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.
 - 5.31.5.10.4. CONTRACTOR shall employ only those persons having appropriate Florida licensure and certification, in good standing, and who have provided documentation of past healthcare experience. Individuals in positions that require credentials (Physicians, Advanced Registered Nurse Practitioners (ARNPs) Psychologists, Psychological Specialists and any other position that requires credentials), will be subject to a credentials review by the Department to ensure that the individual has the requisite training, experience and licensure or certification necessary to perform the duties assigned. The

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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 the DC 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.

5.31.5.11. Medical Records:

- 5.31.5.11.1. CONTRACTOR shall ensure that all healthcare unit staff documents each healthcare encounter in accordance DCs' rules, (Chapters 33-6, 33-19, Florida Administrative Code), policy and procedure, pertinent H SB, and Florida Statutes.
- 5.31.5.11.2. CONTRACTOR shall ensure that each medical record, including the 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 DC rules, policy and procedure and HSBs. This shall include requesting, and documenting the request for all available previous medical records and composing a medical history.
- 5.31.5.11.3. CONTRACTOR shall ensure that all medical record procedures concerning confidentiality are followed. Medical records shall remain the property of the DC and information contained in a medical record shall not be released to anyone who is not legally authorized to receive it.
- 5.31.5.11.4. CONTRACTOR shall ensure that each medical record complies with the Florida Statutes, DC rules, policy and procedure, HSB, the Health Record Manual, HIPAA, and other applicable laws and rules.
- 5.31.5.11.5. CONTRACTOR shall ensure that all logs required in medical areas are maintained in a complete, current and accurate condition in accordance with DC policy, procedure and HSBs. CONTRACTOR shall ensure that the weekly and monthly validations (signatures by the Chief Health Officer or CONTRACTOR's Designee) are accomplished prior to the fifth (5th) day of the following month.

5.31.5.12. Other General Health Service Requirements:

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

5.31.5.12.2. CONTRACTOR'S personnel shall establish regular meetings with representatives from the hospital and other providers 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 DC policy, procedure and HSB.

5.32. **PHYSICAL HEALTH SERVICES**

5.32.1. **Chronic Illness Clinics:**

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

5.32.2. **Sick Calls:** CONTRACTOR will provide sick call in compliance DC policy and procedures and HSBs.

5.32.3. **Emergency Care Services:**

5.32.3.1. Emergencies shall be taken 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.

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

5.32.3.2.1. In-service education on first aid and emergency procedures.

5.32.3.2.2. Written policies and procedures concerning emergency transfer and transportation of inmates.

5.32.3.2.3. Arrangements for emergency 24 hour on-call physician coverage.

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

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

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

5.32.4.1. Upon request by the inmate;

- 5.32.4.2. When there is evidence that an inmate, while at the Facility, has engaged in high-risk behavior, as established in section 945.35, Florida Statutes, for transmitting or contracting HIV;
- 5.32.4.3. If the inmate has a positive tuberculosis skin test or active TB; or
- 5.32.4.4. Any other condition deemed medically necessary by the appropriate medical practitioner.
- 5.32.5. Infection Control Program. CONTRACTOR shall provide for an Infection Control Program at the Facility pursuant to DC policy and procedures, and HSBs.
- 5.32.6. Special Medical Programs. CONTRACTOR shall provide a “special medical program” for inmates who require close medical supervision including chronic and convalescent care Pursuant to DC policy and procedures, and HSBs.
- 5.32.7. Optical Services.
 - 5.32.7.1. 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 ophthalmologist whereby CONTRACTOR is financially responsible.
 - 5.32.7.2. 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. Eyeglasses shall be obtained by CONTRACTOR, through PRIDE.
- 5.32.8. Infirmiry Care and Hospitalization: CONTRACTOR shall provide Infirmiry care for inmates requiring skilled nursing care, chronic illness care, convalescent care, and all acute and chronic conditions which can be managed on-site pursuant to DC policy and procedures, and HSBs.
- 5.33. **DENTAL HEALTH SERVICES**.
 - 5.33.1. CONTRACTOR will provide inmate dental health services pursuant to the DC’s Dental Care Manual, Florida Statutes, American Dental Association Standards, Florida Board of Dentistry Rules, Center for Disease Control Standards, Occupational Safety and Health Administration Standards, DC policy and procedure and HSBs.
 - 5.33.2. If applicable, all dental prosthetics shall be provided by CONTRACTOR through PRIDE of Florida Dental Laboratory. Clinical oversight of the Facility’s dentists shall be provided by the DC’s Office of Health Services’ Director of Dentistry. CONTRACTOR’s provision of dental services shall include the following components:
 - 5.33.2.1. Initial intake screening within five (5) workdays of arrival; and
 - 5.33.2.2. Development of a dental treatment plan that includes:

- 5.33.2.2.1. Prioritization of needs;
- 5.33.2.2.2. Counseling on oral hygiene:
- 5.33.2.2.3. Fillings, cleaning and prosthesis: and
- 5.33.2.2.4. Dentistry based on preventive care and complaint-oriented care.

5.34. **MENTAL HEALTH SERVICES:** CONTRACTOR shall provide for comprehensive mental healthcare services at the Facility in compliance with Florida Statutes, DC policy and procedures, Florida Administrative Codes, and HSBs.

- 5.34.1. CONTRACTOR will use the DC's information system; presently the Offender Based Information System or 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 Offender Based Information System (OBIS) – Health Services (HS) component current, plus any other DC system or component developed for Health Services or any DC 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.
- 5.34.2. CONTRACTOR will make available appropriate personnel for training in the DC's Office Health Services' component of the OBIS-HS. Training will be provided by the DC and will be conducted at a site designated by DC. 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 Contract. Arrangements for the training of new employees, as applicable, will be the responsibility of CONTRACTOR and may be arranged with assistance from the Department. 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.
- 5.34.3. CONTRACTOR shall comply with applicable continuing requirements as determined by the DC's Deputy Assistant Secretary of Health Services-Clinical for reports to and from the Department, DC, CMA and the On-Site Contract Monitor.
- 5.34.4. CONTRACTOR will provide a quarterly report listing all CONTRACTOR employed credentialed mental 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.
- 5.34.5. CONTRACTOR will self-monitor compliance with performance measures in accordance with DC 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 the Department. 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.

- 5.34.6. The Department 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.

5.35. **PHARMACY SERVICES**

- 5.35.1. CONTRACTOR shall pharmacy services in accordance with Florida Statute, Florida Board of Pharmacy Rules, Federal Drug Enforcement Administration Rules, Florida Administrative Code, DC 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/psychiatrists to be able to ensure strict adherence to the DC's drug formulary. Compliance with the DC's Drug Exception Request (DER) policy is required prior to prescribing any non-formulary medications. Subsets or restricted use of the DC's formulary that effectively limit, in any manner, the use of the DC'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.
- 5.35.2. 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 may be affected by utilizing on-site pharmacies, mail order pharmacies or any pharmacy process meeting the requirements in this section.
- 5.35.3. CONTRACTOR shall establish a Facility Pharmacy and Therapeutic Committee that shall make determinations regarding pharmacy services provided by CONTRACTOR.
- 5.35.4. CONTRACTOR shall provide coverage on-site or on-call by a licensed pharmacist 24 hours a day, 7 days a week. ~~Each pharmacist performing services under the Contract shall be reachable by beeper.~~
- 5.35.5. 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

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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.

- 5.35.6. 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 inmate "cheeking" or other means of retaining medications without ingestion.
- 5.35.7. CONTRACTOR shall strictly comply with the DC's formulary in all cases unless the DC approves a medication exception request.
- 5.35.8. CONTRACTOR shall provide other medications in liquid unit dose properly labeled as specified by the CHO. CONTRACTOR shall provide injectable medications as required.
- 5.35.9. CONTRACTOR shall provide hypodermic supplies to include needles and 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 with documentation. The Department suggests consulting with county and state health officials for sharps/sharps container disposal policies and procedures.
- 5.35.10. CONTRACTOR shall provide prescriptions in accordance with all governing DC policy, procedure, health service bulletins, rules and regulations, for inmates leaving on writ or discharge.
- 5.35.11. CONTRACTOR shall properly package all medications in light- and/or humidity-resistant containers as appropriate.
- 5.35.12. CONTRACTOR shall maintain copies of all prescriptions issued to inmates in a permanent file on-site for a period of three (3) years from the date of last entry in the profile record in compliance with Chapters 465.0155, 465.022 Florida Statute. This record may be a hard copy or a computerized form. Copies will be provided to the DC upon request.
- 5.35.13. CONTRACTOR shall in compliance with 465.005, 465.0155, 465.022 FS record and maintain all transactions with the automated pharmacy in a readily retrievable manner. The record shall be available to an authorized agent of the Department of Health or the Board of Pharmacy. The record shall include:
 - 5.35.13.1. Name or identification of the patient or resident.
 - 5.35.13.2. Name, strength and dosage form of the drug product released.
 - 5.35.13.3. Quantity of drug released.
 - 5.35.13.4. Date and time of each release of a drug.
 - 5.35.13.5. Name of provider pharmacy.
 - 5.35.13.6. Prescription number or order number.

- 5.35.13.7. Name of prescribing practitioner.
 - 5.35.13.8. Identity of the pharmacist who approved the prescription or order. (Initials printed on the label).
 - 5.35.13.9. Identity of the person to whom the drug was released.
 - 5.35.14. 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 the DC's Office of Health Services' Director of Pharmacy, or designated representatives of the Department.
 - 5.35.15. CONTRACTOR shall package non-controlled, non-abusable medications in not more than a month's supply as directed by the Facility's CHO. If the quantity is larger than 120 tablets, the supply shall be dispensed not to exceed 120 tablets with appropriate refills.
 - 5.35.16. 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.
 - 5.35.17. CONTRACTOR shall perform in-service training for staff according to a schedule mutually agreed upon and approved by the DC.
 - 5.35.18. CONTRACTOR shall provide a licensed pharmacist to perform third party drug utilization reviews as requested by the DC's Clinical Quality Management Committee.
 - 5.35.19. 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's monthly inspection report shall be completed. One copy shall remain in the pharmacy and a second copy shall be sent to the DC's Director of Pharmacy.
 - 5.35.20. 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.
- 5.36. **LABORATORY SERVICES**
- 5.36.1. CONTRACTOR shall provide Laboratory Services for all medically necessary and appropriate diagnostic laboratory procedures in accordance with Florida Statutes, Florida Administrative Code, DC policy and procedure and HSB to include the requirements set forth below:
 - 5.36.2. All STAT laboratory work shall be performed at a local hospital or accredited laboratory nearest the Facility. Results shall be telephoned immediately to the requesting physician and a written report shall follow within 24 hours.

5.36.3. Non-urgent laboratory services may be provided to the Facility by the DC's laboratory services contracted provider or by CONTRACTOR under a written arrangement. The most cost-effective process may be utilized subject to prior Office of Health Services' approval. However, the subcontracted 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.

5.36.4. Services shall include, but not be limited to:

5.36.4.1. Laboratory supplies and required equipment (i.e., centrifuges).

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

5.36.4.3. Printer installed at the Facility, to provide test results (FACSIMILE NOT ACCEPTABLE).

5.36.4.4. Immediate telephone contact with written reporting capability within 24 hours.

5.36.5. CONTRACTOR will provide a physician/ARNP who 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.

5.37. **RADIOLOGY SERVICES**

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

5.37.2. CONTRACTOR shall ensure that X-ray films are read by a radiologist. The radiologist shall call the Facility CHO/ARNP with any report requiring immediate intervention. CONTRACTOR shall ensure that a written report, on the appropriate DC 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 shall review, initial and date all X-ray reports within a reasonable time.

5.38. **INMATE PROGRAMMATIC SERVICES**

5.38.1. 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. Such services shall be initiated upon the Service Commencement Date, which will be maintained continuously and will be in accordance with DOE, DCF, DC policy and procedure and certified by the appropriate governing agency. Teachers' and instructors' credentials must meet or exceed all applicable requirements of Florida Law. Inmate shall be assigned to programs in accordance with DC policy and procedure. 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.

- 5.38.2. All programs shall be evidence based and shown through current research to successfully reduce recidivism. Evidence-based interventions and practices 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. Some interventions and practices meet some, but not all of the above criteria, and pending further research, may be considered "promising". 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 to confront the consequences of their substance abuse; identifying self-defeating thoughts and patterns of behavior, learn 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.
- 5.38.3. 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 DC policy.
- 5.38.4. 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.
- 5.38.5. 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 participation percentage level identified below:

Facility	Total Number of Inmates Requiring Programming in Academic, Behavioral, Vocational, Substance Abuse	Percentage
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Bay CF	690	70%
Graceville CF	1130	60%
Moore Haven CF	690	70%

5.38.6. Education Programs. CONTRACTOR will administer education academic programs pursuant to DC Policy 501.106, Florida Statutes, and Florida Administrative Codes.

5.38.6.1. Academic Programs shall include:

- 5.38.6.1.1. Literacy;
- 5.38.6.1.2. Adult Basic education I-IV;
- 5.38.6.1.3. Pre-GED®; and
- 5.38.6.1.4. GED® classes;
- 5.38.6.1.5. Post-secondary Programs
- 5.38.6.1.6. GED® Testing. CONTRACTOR will administer all testing in accordance with Florida Department of Education standards and DC policy and procedures. CONTRACTOR will be required to report all testing outcomes to the DMS and DC. CONTRACTOR will be responsible for all technology costs associated with administering the GED® computer-based test (CBT).

5.38.6.2. Vocational Programs. CONTRACTOR will administer career and technical education/ vocational programs pursuant to DC Policy 502.001, Florida Statutes, and Florida Administrative Code. Career and Technical Education/Vocational programs will be offered based on those listed in DC's career and technical education manual.

5.38.6.3. Release Preparation or Pre-Release classes or seminars in accordance with DC 180-hour transition program. 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.

5.38.6.4. Intervention 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 Management skills classes. Cognitive behavior and self-help programs are encouraged.

5.38.6.5. Religious Services shall be made available to all inmates who wish to participate in accordance with the United States Constitution, Florida Statutes, Florida Administrative Code, DC policy and procedures.

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Services shall be provided by a Chaplain(s) hired by CONTRACTOR. CONTRACTOR may use qualified volunteers.

- 5.38.6.6. Organized weekly religious services shall be offered. 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 the DC.
- 5.38.6.7. 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, DC policy and procedures.
- 5.38.6.8. Substance Education and Treatment Program that provides individual and group counseling for inmates that is a treatment program designed to reduce substance use and abuse, that is normed for the population of the Facility in accordance with Florida Statute, Florida Administrative Code, DC policy and procedure to include appropriate licensure from DCF, if applicable.
- 5.38.6.9. Self Help Programs that provide individual and group counseling for inmates as set forth below and that comply DC policy and procedures.
 - 5.38.6.9.1. Alcoholics Anonymous
 - 5.38.6.9.2. Narcotics Anonymous
 - 5.38.6.9.3. Tobacco Cessation
- 5.38.6.10. 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, has deceased, 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.
- 5.38.6.11. 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 the Department. The request shall be submitted to the Contract Manager through the Department's On-Site Contract Monitor. The Department shall respond to any such request within three (3) working days.

- 5.38.6.12. 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 the thirty (30) day allowance, a notice of breach and/or credits may be assessed.

5.39. **PROGRAMMATIC SERVICES PLAN.**

5.39.1. All programs described in CONTRACTOR's Programmatic Services Plan must be offered on a continuous and continual basis. Teacher/instructor ratios in accordance with the Department of Education and DC policy and procedures and are subject to the vacant positions requirements of the Contract. CONTRACTOR shall achieve and maintain performance measures for these programs and shall provide the Department 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.

5.39.2. Performance Measures and Deliverables. These reports will be quarterly and forwarded to the onsite contract manager no later than the following dates: November 1, 20103 (~~July~~August 20103 to September 20103), February 1, 20114 (October 20103 to December 20103), May 1 20114 (January 20114 to March 20114) and August 20114 (April 20114 to June 20114).

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5.39.2.1. Individual Program Plans – Percentage completed on newly arriving inmates.

5.39.2.2. Academic (ABE, Pre-GED®, and GED® classes)

5.39.2.2.1. Percentage of inmates enrolled in GED® class obtaining a GED® certificate within six months. 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.

5.39.2.2.2. Percent of inmates who successfully complete GED® programs. The number of inmates completing GED® courses divided by all inmates who have enrolled in GED® classes

5.39.2.2.3. Percentage of inmates passing the GED® test. The number of inmates obtaining GED® certificates divided by all inmates who have taken all subtests of the official GED® exam.

5.39.2.2.4. Percent of inmates participating in educational programs obtaining a .5 increase in grade level for three months of instruction. The number of inmates increasing his grade level by at least .5 through pre-test and posttest measures divided by the total number of students enrolled in academic classes for three months.

5.39.2.2.5. Percent 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 F.S. 944.801(i). The highest priority for inmate participation is focused on youthful offenders and inmates nearing release. 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.

- 5.39.2.2.6. Percent of inmates who successfully complete mandatory literacy programs. Number of inmates successfully completing literacy programs divided by all inmates enrolled in the literacy program during the time period.
- 5.39.2.2.7. Percent of inmates enrolled in academic programs that have an expected release date within five years. Number of inmates who are currently enrolled in academic programs and have an expected release date within five years divided by the total number of inmates enrolled in academic programs.
- 5.39.2.3. Career and Technical Education/Vocational (Commercial Vehicle Driving, HVAC, Personal Computer Support Services, Culinary Arts/Institutional Cooking, and Landscaping)
 - 5.39.2.3.1.1. Percent of inmates who successfully complete vocational education programs at the highest level of certification available at the facility. Number of inmates successfully completing vocational programs divided by all inmates exiting vocational programming.
 - 5.39.2.3.1.2. Average number of occupational completion points (or equivalent) earned by inmates enrolled in vocational programming. Completion points are established by the Department of Education 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.
 - 5.39.2.3.1.3. Percentage of inmates completing the Commercial Vehicle Driving class. This measure is the number of inmates completing the course divided by the number of inmates enrolled.
 - 5.39.2.3.1.4. Percentage of inmates mastering stated curriculum objectives for modules at 80% or higher. This measure is the number of inmates mastering stated curriculum objects at 80% or higher divided by the number of inmates participating in the programming.
 - 5.39.2.3.1.5. Percent of inmates enrolled in vocational programs that have an expected release date within three years. Number of inmates who

are currently enrolled in vocational programs and have an expected release date within three years divided by all inmates enrolled in vocational programs.

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

- 5.39.2.4.1. At least 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. 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.
- 5.39.2.4.2. At least 60% of inmates enrolled in substance abuse treatment programs will successfully complete Drug Abuse Education/Treatment programs. 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.
- 5.39.2.4.3. Percentage of random inmate drug tests that are negative for inmates in Drug Abuse Education/Treatment programs. 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.
- 5.39.2.4.4. Percentage of random inmate drug tests that are negative for inmates not participating in Drug Abuse Education /Treatment programs. 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.

5.39.2.5. Behavioral (Transition, Life Skills, and Cognitive-Behavioral Programming)

- 5.39.2.5.1. Percentage of inmates receiving major disciplinary reports who have completed behavioral modification/intervention courses. Number of major disciplinary reports for inmates who have not completed behavioral programming divided by total number of major disciplinary reports.
- 5.39.2.5.2. Percentage of inmates with employment documents (social security card, birth certificate, state identification, etc.) prior to

release. Number of released inmates who have employment documents divided by total number of released inmates.

5.39.2.5.3. Percentage of transition plans completed for inmates released from prison. Number of released inmates who have completed transition plans divided by total number of released inmates.

5.39.2.5.4. Percentage of release plans completed for inmates released from prison. Number of released inmates who have release plans divided by total number of released inmates.

5.40. **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 DC policy and procedure. CONTRACTOR will comply with DC'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 DC policy and procedure to include, but not be limited to the following:

5.40.1. Regular changes of clothing;

5.40.2. Toothbrush & toothpaste;

5.40.3. Disposable razor (except where prohibited);

5.40.4. Bath soap;

5.40.5. Toilet paper;

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

5.40.7. Clean bedding and linen.

5.41. **INMATE COMPENSATION.** Inmates employed in selected industry jobs are paid for their labor. Wages should be deposited to the inmate's account and a portion of earnings be returned to the State to offset part of the cost of incarceration. Distribution of inmate earnings will continue to accrue to either the inmate or the State and CONTRACTOR will have no claim to any part of inmates' earnings. CONTRACTOR shall comply with Florida Statutes regarding inmate earnings distribution. Inmates assigned to work in the inmate commissary/canteen may earn compensation.

5.42. **LIBRARY.**

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

5.42.2. CONTRACTOR will provide a general library for inmate use.

5.43. **ACCESS TO COURTS.** CONTRACTOR shall provide inmates access to courts in compliance with the United States Constitution, Florida Statutes, Florida Administrative Code and DC policy and procedures.

5.44. **RECORDS AND DOCUMENTATION.**

5.44.1. **Records Maintenance:** 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 the DC. 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:

- 5.44.1.1. Provision of all reports and records necessary for monitoring of any court-ordered compliance.
- 5.44.1.2. 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;
- 5.44.1.3. Signed release of information forms;
- 5.44.1.4. Appropriate transfer documentation as to legal authority to accept the inmate;
- 5.44.1.5. Referrals to other agencies;
- 5.44.1.6. Confidentiality and safeguarding of case records to ensure against unauthorized and improper disclosure;
- 5.44.1.7. Maintenance of records and reports; and
- 5.44.1.8. The retention and storage of logs and records in a manner consistent with DC policy and Florida law.

5.44.2. **Management Information System:**

- 5.44.2.1. CONTRACTOR shall install a fully compatible electronic data processing (EDP) System to Access the Florida Offender Based Management Information System (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. CONTRACTOR will provide the On-Site Contract Monitor with reports generated from the personnel systems to ensure contract compliance.
- 5.44.2.2. Workstations must conform to Department standards such as Windows XP SP2, MS Office 2007, IE 7, viral protection software and 3270 emulation. CONTRACTOR employees can connect to the DC's Offender

Based Information System (OBIS) through the workstations once approved by the DC's Bureau of Technology Services. The DC 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 the Department's security management system and access request process. CONTRACTOR will purchase the VPN connection from Florida's Department of Management Services. CONTRACTOR will provide the On-Site Contract Monitor with a computer and workstation.

5.45. **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.

5.46. **ON-SITE CONTRACT MONITOR.** The On-Site Contract Monitor or the Department designee will be the official liaison between the Department and CONTRACTOR. All official communications shall take place between the On-Site Contract Monitor and CONTRACTOR, unless the Department directs otherwise, **and in accordance with section 5.52.** All other communication between the Department's 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.

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5.47. **ON-SITE CONTRACT MONITOR TECHNOLOGY REQUIREMENTS.** 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.

5.48. **MONITORING AND EVALUATION.**

5.48.1. Contract Monitoring/Performance Evaluation Monitoring

5.48.1.1. At its discretion, the Department will monitor CONTRACTOR's performance to ensure compliance in accordance with all contract provisions, DMS's instructions, and all applicable standards, including, but not limited to ACA Standards, Florida Administrative Code, Department and DC guidelines, specifications of the Contract, Court Orders and Decrees. DC 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 the Department's request.

5.48.1.2. The On-Site Contract Monitor or designated representatives or employees of the Department shall conduct inspections as deemed necessary. The Department shall have the right, unless otherwise proscribed 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.

- 5.48.1.3. The Department will use a contract performance indicator assessment tool.
- 5.48.1.4. Prior to execution of the contract, the CONTRACTOR shall provide all subcontracts for the Department's 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.
- 5.48.1.5. 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 8.1.1.3.2.
- 5.48.1.6. Pursuant to F.S. 957.04(1)(a)3.g. Contract Requirements, 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.
- 5.48.1.7. 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:
 - 5.48.1.7.1. Security
 - 5.48.1.7.2. Classification and Inmate Records
 - 5.48.1.7.3. Inmate Programs and Services
 - 5.48.1.7.4. Physical Plant, Safety and Sanitation
 - 5.48.1.7.5. Administration
 - 5.48.1.7.6. Food Service
 - 5.48.1.7.7. Personnel, Staff Development and Training
 - 5.48.1.7.8. Inmate Health Services
 - 5.48.1.7.9. Rules of Prohibited Conduct and Discipline

5.48.1.7.10. Insurance and Fiscal Accountability

5.48.1.8. 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, the Department 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 at this time the Contract Performance Indicator (CPI) assessment tool.

5.48.2. 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.

5.49. **PRISON RAPE ELIMINATION ACT (PREA)**. 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 DC policy and procedures. 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: <http://www.nprec.us/standards.htm>."

5.50. **INCIDENT REPORTING.**

5.50.1. CONTRACTOR will follow the policies and procedures established by the DC and the Department in the reporting of incidents occurring at the Facility. The On-Site Contract Monitor shall be notified within 24 hours of any incident occurring at the Facility.

5.50.2. 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 180 days from the date the allegation of wrongdoing was first reported.

5.51. **RULES AND REGULATIONS.**

5.51.1. CONTRACTOR shall agree to comply with all state and federal constitutional requirements, laws, Court Orders, and ACA Standards (whether mandatory or non-mandatory), the Florida Department of Corrections' 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.

5.51.2. 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 Department of Corrections' and Department of Management Services'

Administrative Rules and, Procedures and DC Health Service Bulletins, the Florida Department of Law Enforcement (FDLE), DCF, DOE, DOH and the Chief Financial Officer 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 Documents are incorporated herein by reference and made a part of hereof. Any changes in the scope of service required to ensure continued compliance with State or Federal laws, statutes or regulations, or Department or DC policy or regulations will be made in accordance with Section 8.4, Modifications to Contract – Increase/Decrease of Scope of Service.

- 5.51.3. The Department reserves the exclusive right to make certain determinations regarding the service requirements outlined in this Contract. The absence of the Department 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 the Department, either directly or indirectly, through these services.
- 5.51.4. 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.
- 5.52. **CONTRACT COMMUNICATIONS.** Contract communications will be in three forms: routine, informal and formal. For the purposes of this Contract, the following definitions shall apply:
- 5.52.1. **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.
- 5.52.2. **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.
- 5.52.3. **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, or 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.
- 5.52.4. 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 the Department 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.

- 5.52.5. If there is an urgent administrative problem, the Department 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, the Department 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 the Department by providing the necessary.

6. EMPLOYEES

- 6.1. **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, the Department, or the DC any leave, retirement, insurance, bonding or any other benefit afforded to the employees of the State, the Department, or the DC as a result of this Contract. CONTRACTOR, its agents, and employees shall not be considered agents or employees of the State, the Department, or the DC.

6.2. **SUBCONTRACTORS.**

- 6.2.1. CONTRACTOR may subcontract for the performance of any of its responsibilities to provide services pursuant to this Contract, provided the Department 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 the Department's 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 the Department and any subcontractor and the Department 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 the Department in any manner and shall not be included in contract negotiations, renewals, audits or any other discussions except at the request of the Department.

- 6.2.2. The Department encourages minority and women-owned business (MWBE) and service-disabled veteran business enterprise (SDVBE) participation in all its Contracts. 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.

6.3. **PERSONNEL.**

- 6.3.1. 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.
- 6.3.2. CONTRACTOR will provide the Department 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 in [Exhibit __, to be provided by the CONTRACTOR]. CONTRACTOR'S staffing pattern must be submitted and approved by the 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 Contract Manager. All name changes will be sent to the On-Site Contract Monitor and noted on the Position Control Logs monthly. [Exhibit __, 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 agreed to by the Bureau Chief in writing.
- 6.3.3. Sufficient certified 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. Critical positions shall not be filled with Temporary Employment Authorizations (TEAs). 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 attached as Exhibit 2 and herein incorporated 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.

6.3.4. 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 9001,440 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-week period. The Department reserves the right to authorize exceptions to this section.

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6.3.5. CONTRACTOR shall notify the Department, 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.

6.3.6. CONTRACTOR shall conduct monthly random drug testing to include anabolic steroid and drug testing of 5% of all certified staff, subject to Florida Administrative Code, Florida Statutes and DC 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. Each report will indicate which officers were tested, date tested, the result, and how the random 5% sample was selected

6.3.7. 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.

6.3.8. Employment Eligibility Verification.

6.3.8.1. 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 Florida Department of Management Services (the “Agency”), within thirty days of the effective date of this Agreement, 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.

6.3.8.2. CONTRACTOR further agrees that it will require each subcontractor that performs work under this Agreement to enroll and participate in the E-Verify Program within ninety days of the effective date of this Agreement or within ninety 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 Agency and other authorized state officials upon request.

6.3.8.3. 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 the Agency and other authorized state officials.

6.3.8.4. 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 Agreement.

6.4. **STAFFING REQUIREMENTS**

6.4.1. CONTRACTOR shall provide sufficient, qualified personnel to oversee and carry out the required operations of the Facility as specified by DC'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 Contract Manager.

6.4.2. FDLE Automated Training Management System (ATMS): CONTRACTOR will provide updated information on the Automated Training Management System (ATMS). All terminations for cause will have appropriate comments added to the termination reason in the ATMS Correctional officer certification standards are established by the Florida Department of Law Enforcement, which oversees several academies across the state. Please contact the appropriate academy for their costs and application process. For a list of certified criminal justice training facilities please see the following webpage: http://www.fdle.state.fl.us/cjst/Training_Resources/training_centers.html.

6.4.3. 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.

6.4.4. Vacancies:

6.4.4.1. 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.

6.4.4.2.

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 the Department, to be reviewed on a case-by-case basis to fill a position with contracted staff. The request shall be submitted to the Contract Manager and the Department's On-Site Contract Monitor. The Department shall respond to any such request within three (3) working 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 the Department's On-Site Contract Monitor to be included on the monthly vacancy report submitted to the Department. Where contracted staff is utilized, CONTRACTOR must submit the invoice relative to payment for such contracted staff, reflecting dates of service and costs, to the Department's 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. The Department shall adjust the Management Payment under Section 8.1 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.

6.4.4.3.

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 the Department using the 365-day method inclusive of benefits, until such time as the position is filled permanently or with contracted staff.

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- 6.4.4.4. These deductions will be based on the minimum salary level of the staff member's position as established in [Exhibit __, to be provided by the CONTRACTOR]. [Exhibit __, 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.
- 6.4.5. Staff Health Requirements: CONTRACTOR shall have all staff tested annually for Tuberculosis, and inoculated for Hepatitis B per the DC's Blood Borne Pathogens Manual and applicable ACA Standards.
- 6.4.6. Minimum Required Staffing Positions:
- 6.4.6.1. 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.
- 6.4.6.2. Staff Conduct: CONTRACTOR shall ensure that all staff adheres to the following requirements for conduct:
- 6.4.6.2.1. CONTRACTOR or staff shall not display favoritism to or preferential treatment of, one inmate or group of inmates over another.
- 6.4.6.2.2. CONTRACTOR or staff shall not display any favoritism or preferential treatment to family, friends of employees or inmate family members.
- 6.4.6.2.3. 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.
- 6.4.6.2.4. Unless approved in writing by the 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.
- 6.4.6.2.5. CONTRACTOR or staff shall not engage in any conduct which is criminal in nature or which would bring discredit upon CONTRACTOR or the Department or the DC. 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 the Department.

During this time, the employee may not perform work under this Contract. The Department will make the final determination of whether employee will be permitted to continue to work under the Contract after review of all documentation.

- 6.4.6.2.6. 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.
- 6.4.6.2.7. CONTRACTOR shall report any violations detailed above and any other incident requiring investigation by CONTRACTOR in writing to the Contract Manager within 24 hours of CONTRACTOR's knowledge of the incident.
- 6.4.6.2.8. CONTRACTOR shall provide their employees with a copy of these standards of employee conduct and document receipt of such notification in the employee's personnel file.
- 6.4.6.3. Criminal History Check:
 - 6.4.6.3.1. 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 a Florida Department of Law Enforcement (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 the Department, 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, 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 the Department and noted on the Position Control Logs monthly.

- 6.4.6.3.2. 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 Statute 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.
- 6.4.6.3.3. Fees associated with the background checks and fingerprint retention in the FDLE FALCON system will be CONTRACTOR's responsibility.
- 6.4.6.3.4. If the criminal history report for an applicant contains no history of criminal activity/arrests, the DMS will review and provide written notification to the CONTRACTOR that the applicant has successfully passed the criminal history background screening.
- 6.4.6.3.5. If there is a history of criminal activity/arrests, the facility will be contacted by the DMS and request additional information for further review. This information may include, arrest reports, court documents including, final disposition, orders, judgments, probation information, State Attorney no-file documents, etc. The CONTRACTOR shall contact the applicant and request that this information be sent to the facility. The CONTRACTOR, in turn, can fax, scan or email the requested documentation to the DMS. Within one (1) to two (2) business days of receiving the documentation from the facility, the DMS will make a recommendation to the Contract Manager who will make the final determination for criminal history background clearance. CONTRACTOR will be notified the same day the Department makes its final determination by the Contract Manager.
- 6.4.6.3.6. 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 the

Department of Corrections without permission, in writing, by the Contract Manager. CONTRACTOR will not employ any person who has not been approved by the Department for employment.

- 6.4.6.3.7. CONTRACTOR shall not hire any individual to provide services as described in this Contract who has been barred from any Department, DC or other criminal justice facility. **CONTRACTOR shall not hire any employee who has been terminated from DC for cause.** CONTRACTOR shall immediately report to the Department 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 the Department.
- 6.4.6.3.8. CONTRACTOR shall notify the Department 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.

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7. TRAINING

- 7.1. CONTRACTOR will provide training programs in compliance with the ACA Standards, Chapter 943 and section 957.05, Florida Statutes, the Florida Department of Law Enforcement, Division of Training, and Chapter 33, Florida Administrative Code. CONTRACTOR will provide a monthly report 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.

8. COMPENSATIONS AND ADJUSTMENTS

- 8.1. **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.
 - 8.1.1. The Department will compensate CONTRACTOR at the following Per Diem Rates (inmate, per day) for Fiscal Year(s) _____:
 - 8.1.1.1. \$_____ times the minimum occupancy of 90%
 - 8.1.1.2. \$_____ for each inmate over the minimum occupancy rate of 90%;
 - 8.1.1.3. Minus monthly deductions for:
 - 8.1.1.3.1. The Major Maintenance and Repair Reserve Fund set forth in Section 4.9, in the monthly amount of \$_____

- 8.1.1.3.2. The On-Site Contract Monitor set forth in Section 5.46, in the monthly amount of \$_____.
- 8.1.1.3.3. Any property taxes or payments in lieu of taxes (PILOT) that may become due on the Facility pursuant to judicial determination or legislative mandate.
- 8.1.1.3.4. 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.

8.1.2. If the parties renew the Contract pursuant to Section 3.1, the Per Diem Rates shall be mutually agreed upon. increase by ___% on August 1, 2016 and August 1, 2017.

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8.1.3. Regardless of the number of inmates incarcerated at the Facility, CONTRACTOR is guaranteed an amount equal to 90% occupancy (____ inmates) times the 90% Per Diem Rate subject to legislative appropriations. This guarantee may be subject to the following: adjustments to compensation as set forth in Section 8.1.1.3; deductions due to position vacancies as set forth in Section 6.4.4; deductions due to program vacancies as set forth in Section 5.38.76.10; deductions for reimbursement of the On-Site Contract Monitor as set forth above; deductions for the maintenance reserve as set forth in Section 4.9; ad valorem taxes and/or PILOT payments required to be paid by CONTRACTOR by judicial determination or legislative mandate, as set forth in Section 12.7; and any other deduction or charge permitted in this Contract.

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8.2. INVOICES.

8.2.1. 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 counts, the DC’s count will be used in calculating the per diem payment. Invoices will be adjusted as specified in the Contract.

8.2.2. CONTRACTOR will provide required documentation for the invoice to the On-Site Contract Monitor each month when the invoice is submitted to the Department’s 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 the Department and shall approve all invoices for payment pursuant to Chapter 215, Florida Statutes.

8.2.3. Submit to:
 Bureau Chief
 Bureau of Private Prison Monitoring
 Florida Department of Management Services

4050 Esplanade Way, Suite 380
Tallahassee, Florida 32399-0950

8.3. INTEREST PENALTIES.

- 8.3.1. Payment shall be made in accordance with sections 215.422 and 55.03, Florida Statutes, which state CONTRACTOR's rights and the Department's 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 of Banking and Finance. 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.
- 8.3.2. 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 the Department.
- 8.3.3. A contractor Ombudsman has been established within the Department of Banking and Finance. The duties of this individual include acting as an advocate for contractors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Ombudsman may be contacted at (850) 410-9724 or by calling the State Comptroller's Hotline at (800)848-3792.

8.4. ADJUSTMENTS DUE TO CHANGES IN STANDARDS OR UNFORESEEN CIRCUMSTANCES. The Department recognizes that CONTRACTOR has entered into this Contract based upon the ACA Standards, DC or DMS policies, procedures, rules, bulletins, technical instructions and laws in effect as of the Effective Date. If there are changes in these 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 the Department written notice and documentation supporting an adjustment to compensation. 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 the ACA Standards or Unforeseen Circumstances which changes the scope of services shall be subject to adequacy of appropriated funds, sufficient to cover the compensation change.

8.5. ADJUSTMENTS DUE TO PARTIAL PERFORMANCE. The Per Diem payment set forth in Section 8.1 assumes the services required under this Contract are fully performed. If the services are not fully performed, the Department will be entitled to an adjustment to compensation, 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 the Department may waive the credits in a particular case if the Department determines in its discretion that the credits are not warranted. For services to be performed on a constant or daily basis, the credits will be due 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 be due for each time the service was not fully performed. These credits shall be in addition to, and shall not constitute a waiver of, the Department's right to pursue any remedies or other damages under Section 11 of this Contract. Prior to exercising its rights under this section, the Department 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 credits depend on the "Service Area" in which the non-performance occurred, as follows:

- 8.5.1. 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, Escapes, Contract Monitoring.
- 8.5.2. Service Area Two -- \$2,500 per Non-Performance. This Service Area consists of all services related to: Sanitation and Hygiene, Food Service, Mail, Religion, Access to Court, Inmate Discipline, Grievance, Visitation, Records and Reports, Employee Qualifications and Training.
- 8.5.3. Service Area Three -- \$2,500 per Non-Performance. This Service Area consists of all services related to: Operating Standards, Transportation, Maintenance, Repairs and Replacements, Inmate Work, Academic & Vocational Training, Sentence Computation Data, Classification and Case Management, Commissary, Policies/Procedures/Post Orders, Inmate Management Fund/Bank Accounts.
- 8.5.4. Service Area Four -- \$1,500 per Non-Performance: This Service Area consists of all services related to: Laundry and Inmate Clothing, Telecommunications, Supplies/Perishables, Recreation
- 8.6. **SUPPLEMENTAL COMPENSATION**. In the event that, pursuant to Section 4.11, CONTRACTOR proposes to expand the capacity of the Facility and the Department 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 the Department 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.
- 8.7. **APPROPRIATION CONTINGENCY**. The State's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Florida 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.

9. INDEMNIFICATION AND INSURANCE

9.1. INDEMNIFICATION.

- 9.1.1. 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 the Department, 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.
- 9.1.2. 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 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.

9.2. **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.

9.3. **INSURANCE.**

9.3.1. 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 two million dollars (\$2,000,000) for each occurrence within a yearly aggregate of at least ten million dollars (\$10,000,000), and civil rights claims in an amount not less than two million dollars (\$2,000,000) for each occurrence within a yearly aggregate of at least five million dollars (\$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 two million dollars (\$2,000,000) per occurrence. Coverage shall also specifically be provided to protect against employee dishonesty in an amount of not less than fifty thousand dollars (\$50,000).

9.3.2. CONTRACTOR shall obtain and provide proof of workers' compensation insurance coverage (including employer liability) in the amount and manner required by Florida law for all employees of CONTRACTOR.

9.3.3. 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 two million dollars (\$2,000,000) per occurrence with a five million dollar (\$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.

- 9.3.4. 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 ten million dollars (\$10,000,000) per occurrence and thirty-five million dollars (\$35,000,000) yearly aggregate limit. Layer coverage may satisfy those totals.
- 9.3.5. 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.
- 9.3.6. CONTRACTOR shall obtain and provide proof of boiler and machinery coverage ("comprehensive" coverage) in the amounts of one million dollars (\$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.
- 9.3.7. CONTRACTOR shall obtain and provide proof of premises liability insurance (which should be included in any general liability coverage) and property coverage (fire 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.
- 9.3.8. 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 one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) yearly aggregate limit. The State and its respective agencies shall be included as additional insured under this policy.
- 9.3.9. 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 one million dollars (\$1,000,000).
- 9.3.10. 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 the Department 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 the Department provides prior written consent.

- 9.3.11. 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.
- 9.3.12. 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.
- 9.3.13. 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.
- 9.3.14. 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 (3) percent of the required yearly aggregate limit of coverage.
- 9.3.15. CONTRACTOR is responsible for first dollar defense coverage. All general liability and professional liability policies shall provide defense in addition to the policy limits.
- 9.3.16. 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.
- 9.3.17. As respects 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.
- 9.4. **CERTIFICATE OF INSURANCE AND CANCELLATION**. During the performance of the management services hereunder, CONTRACTOR shall maintain the plan of insurance and submit a Certificate of Insurance to the Department for the mutual protection and benefit of it and the Department, naming the Department 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 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 the Department at least fifteen (15) days after receipt by CONTRACTOR.

- 9.5. **DEFENSE/IMMUNITY.** By entering into the Contract, neither the State, DMS, the DC nor CONTRACTOR waives any immunity defense which may be extended to them by operation of law including limitation of damages; accepting only that CONTRACTOR may not assert the defense of sovereign immunity.
 - 9.6. **NOTICE OF CLAIMS.** Within five (5) calendar days after receipt by the Department, or of any agent, employee or officer thereof of a summons in any action, or within five (5) calendar days of receipt by the Department, or of any agent, employee or officer thereof, of notice of claim, the Department, 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 the Department, or any agent, employee or officer, but only if such failure to notify results in a prejudice to CONTRACTOR, the Department, or any agent, employee or officer. CONTRACTOR will provide the Department similar notice of claims.
 - 9.7. **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 8.4.
 - 9.8. **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.
 - 9.9. **PERFORMANCE BOND.** CONTRACTOR shall not be required to provide a performance bond.
- 10. 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:
- 10.1. 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 the DC. The Department, CONTRACTOR, and a representative of the DC shall develop and implement, maintain, and comply with the Transfer Agreement (Exhibit B) for transferring inmates between a correctional facility operated by the DC and a privately operated correctional facility.
 - 10.2. 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 the DC.

- 10.3. 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.
- 10.4. 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.
- 10.5. 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.
- 10.6. Develop and implement requirements that inmates engage in any type of work, except to the extent that those requirements are accepted by the Department.
- 10.7. Determine inmate eligibility for any form of conditional, temporary, or permanent release from a correctional facility.

11. DEFAULT AND TERMINATION PROVISIONS

- 11.1. **DEPARTMENT BREACH.** Each of the following shall constitute a Breach of Contract on the part of the Department:
 - 11.1.1. After appropriation of adequate funds by the State, failure by the Department to make payments to CONTRACTOR under the guidelines of section 215.422, Florida Statutes.
 - 11.1.2. The persistent or repeated failure or refusal by the Department 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.
- 11.2. **CONTRACTOR BREACH.** Each of the following shall constitute a Breach of Contract on the part of CONTRACTOR:
 - 11.2.1. 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.
 - 11.2.2. A material failure to meet or comply with any court order, ACA Standards, or federal or state requirement of law.
 - 11.2.3. A failure to maintain ACA accreditation in accordance with Section 5.11;
 - 11.2.4. 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

- 11.2.5. Any other action by CONTRACTOR which would be considered a breach of this Contract at common law.
- 11.3. **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.
- 11.4. **TIME TO CURE.** Except in cases where immediate compliance is required under Section 11.7, 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, on-going, and conscientious effort on the part of CONTRACTOR within a reasonable period not to exceed a total of sixty (60) days, unless extended by the Department, then CONTRACTOR may, within the specified cure period, submit a plan for curing the Breach of Contract to the Department. 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, the Department shall promptly review such plan and, at its 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, the Department will not terminate this Contract unless CONTRACTOR has had at least sixty (60) workdays to correct the Breach of Contract.
- 11.5. **REMEDY OF THE DEPARTMENT.** Upon the occurrence of a Breach of Contract by CONTRACTOR, and subject to the notice and cure provisions in this Contract, the Department shall have the right to adjust CONTRACTOR'S compensation as set forth in Section 8.1 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 the Department Chief may offset against any payments owed to CONTRACTOR all reasonable costs incurred by the Department 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 the Department of all reasonable costs incurred by the Department to cure the Breach of Contract, including attorneys' fee. In the event of a termination of this Contract due to a Breach of Contract under Section 11.2, the Department shall have no further obligations to CONTRACTOR after CONTRACTOR's removal; CONTRACTOR agrees to comply with Sections 12.5 and 12.6 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 the Department, and during any such appeal, the remedies pursuant to this paragraph shall be

toll. 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 the Department or any other agency to staff the Facility, and any expenses incurred by the Department or any other agency to operate the Facility which exceed the amount the Department would have paid the CONTRACTOR under this Contract.

11.6. **REMEDY OF THE CONTRACTOR.** Upon a Breach of Contract by the Department, 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 the Department payment for all services satisfactorily furnished under this Contract up to and including the date of termination.

11.7. **IMMEDIATE COMPLIANCE.** Notwithstanding anything in this Contract to the contrary, if the Secretary of the Department reasonably determines that CONTRACTOR'S noncompliance with a term of 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.

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

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

11.8. **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.

11.9. **TERMINATION**

11.9.1. **Termination for Non-Appropriation.** If at any time during the term of this Contract, including any renewal period, the Legislature reduces appropriations to the Department or the Department's 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, the Department may exercise its no-fault termination rights under this Contract.

- 11.9.2. Termination for Cause. In the event the Department is entitled to terminate this Contract due to a Breach of Contract by CONTRACTOR, the Department may terminate this Contract immediately or in stages. Following notice of termination, in coordination with the DC, the Department may coordinate the placement of DC 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.
- 11.9.3. 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 the Department will assume, the date of assumption, and, if possible, the accompanying adjustment in compensation under the Contract as described below.
- 11.9.3.1. 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 the Department 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.
- 11.9.3.2. In the event of a Partial Takeover, the Department 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 the Department with information to demonstrate its cost of providing the services taken over. CONTRACTOR shall have no other right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount resulting from the Partial Takeover.
- 11.9.4. Other Rights to Assume Temporary Control of Facility. The Department also reserves the right to temporarily assume or coordinate with DC 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 the Department to assume control in any particular case.

11.9.5. 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.

11.10. **LIMITATION OF LIABILITY.**

11.10.1. For all claims against CONTRACTOR under this Contract, regardless of the basis on which the claim is made, CONTRACTOR'S liability shall be limited shall be limited to (i) the amount payable for such claims under any insurance policy required under Section 9.3 of this Contract; plus (ii) two times the amount CONTRACTOR has invoiced the Department for services under this Contract. This limitation shall not apply to claims arising under the indemnity provisions of this Contract.

11.10.2. Unless otherwise specifically enumerated in this Contract, no party shall be liable to another for special, indirect, punitive, or consequential damages, including 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.

12. **MISCELLANEOUS PROVISIONS**

~~12.1. **OPERATIONAL PLAN REQUIREMENTS.** As a condition precedent to commencement of services hereunder and, prior to the Service Commencement Date, CONTRACTOR shall provide the Department, for the Department's written approval, an Operational Plan that covers the full range of Facility operations, including, but not limited to, a policy and operations manual that incorporates all DC rules, policy, procedures and HSB which shall cover:~~

~~12.1.1. 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, inmate food service standards; medical care; sanitation and hygiene practices; inmate exercise; access to mail, telephone and visitation; staff working conditions; and inmate work assignments;~~

~~12.1.2. Procedures that will be utilized to facilitate monitoring of the Facility by CONTRACTOR's Authorized Representative or the Authorized Representative's designees on an annual basis;~~

~~12.1.3. 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~~

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develop the corresponding procedures and forms, and document self-monitoring activities under the contract;

- 12.1.4. Procedures for assumption of operations by the Department or the DC in the event of CONTRACTOR's bankruptcy or inability to perform its duties hereunder;
- 12.1.5. An emergency procedures/security manual for confidential use by staff supervisors employed by CONTRACTOR;
- 12.1.6. Post orders for all Facility security staff positions. 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;
- 12.1.7. Job descriptions for each position, including salary range, education and experience requirements, descriptions of job duties, and full-time or part-time designation. All job descriptions must be submitted 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 for review and approval in writing by the Contract Manager. Revisions must be approved prior to implementation. All job announcements must be accompanied with the corresponding job description approved by the Contract Manager;
- 12.1.8. Finalized building schedules 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.
- 12.1.9. CONTRACTOR shall notify the Department in writing of desired changes in, or additions to, the Operational 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 within thirty (30) days of receipt of a request for a change or addition. A material breach of the operational plan shall be regarded as a Breach of this Contract.

12.2.12.1. 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, the Department and the State, or its respective designees, to inspect the same at all reasonable times pursuant to Chapter 119 Florida Statute, 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.

~~12.3.12.2.~~ **MAINTENANCE OF CORPORATE EXISTENCE AND BUSINESS.** 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 the Department, the On-Site Contract Monitor, or other authorized personnel as requested.

~~12.4.~~ **SEC REPORTS.** CONTRACTOR shall, on a timely basis, provide the Department with copies of all annual reports on Form 10-K, quarterly reports on Form 10-Q, and reports on Form 8-K required to be filed by CONTRACTOR with the Securities and Exchange Commission. Prior to the execution of this Contract, CONTRACTOR shall provide the Department with their most recent filed Form 10-K and any Form 10-Qs or Form 8-Ks.

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~~12.5.12.3.~~ **TRANSITION SERVICES.**

~~12.5.1.12.3.1.~~ In connection with any termination, expiration, Partial Takeover, or assumption of temporary control under Section 11 of this Contract, CONTRACTOR agrees to work with the Department and/or the DC under the Department and/or the DC management supervision for a period of at least ninety (90) days to ensure an orderly and efficient transition from CONTRACTOR's management to the Department and/or the DC 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.

~~12.5.2.12.3.2.~~ 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. In no event will the price for transition services exceed the rates CONTRACTOR typically charges governmental clients for similar services. Notwithstanding anything to the contrary herein, if the Department terminates this Contract because of a breach by CONTRACTOR which is not timely cured, the transition services shall be provided at no cost to the Department.

~~12.5.3.12.3.3.~~ CONTRACTOR will not prevent the employment of any person working at the Facility to continue working at the Facility upon the termination or expiration of this Contract.

~~12.6.12.4.~~ **TRANSITION PLAN.** The parties will begin working cooperatively on a detailed transition plan immediately upon the Effective Date of this Contract. 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 the Department, DC, or an outside vendor. The transition plan will be reviewed and updated by the parties as and when the Department deems appropriate.

~~12.7.12.5.~~ **TAXES, LIENS, AND ASSESSMENTS.**

~~12.7.1-12.5.1.~~ 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 the Department 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.

~~12.7.2-12.5.2.~~ 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). 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.

~~12.7.3-12.5.3.~~ 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.

~~12.8-12.6.~~ **PRISON REHABILITATIVE INDUSTRIES AND DIVERSIFIED ENTERPRISES, INC. (PRIDE).** Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person,

firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the 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>.

~~12-9-12.7.~~ **PRODUCTS AVAILABLE FROM THE BLIND OR OTHER HANDICAPPED.** Section

413.036(3), F.S. requires the following statement to be included in the solicitation: "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>.

~~12-10-12.8.~~ **LOBBYING AND INTEGRITY.** CONTRACTOR shall ensure compliance with section 11.062,

FS and section 216.347, FS. CONTRACTOR shall not, in connection with this or any other agreement with the State, directly or indirectly (1) 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 (2) 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 (2), "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 the Department's Inspector 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://dhis.dos.state.fl.us/barm/genschedules/gensched.htm>).

~~12-10-1-12.8.1.~~ 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.

~~12.11.12.9.~~ **COPIES OF DOCUMENTS.** Prior to the execution of this Contract and on an on-going basis, CONTRACTOR shall timely provide to the Department copies of the following documents:

~~12.11.1.12.9.1.~~ All original and renewed insurance certificates clearly indicating compliance with Section 9.3.

~~12.11.2.12.9.2.~~ Tax receipts or other appropriate documentation indicating CONTRACTOR's payments to the taxing authorities to indicate compliance with Section 12.7

~~12.12.12.10.~~ **REIMBURSABLE EXPENSES.** In the event that CONTRACTOR fails to comply with Sections 12.2, 12.5 and 12.10, CONTRACTOR shall pay actual expenses for the Department 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 Sections 12.2, 12.5 and 12.10.

~~12.13.12.11.~~ **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.

~~12.14.12.12.~~ **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.

~~12.15.12.13.~~ **INTERPRETATION.** The headings contained in this Contract are for reference purposes only and shall not affect the meaning or interpretation of this Contract.

~~12.16.12.14.~~ **TERMINOLOGY AND DEFINITIONS.** 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.

~~12.17.12.15.~~ **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.

~~12.18.12.16.~~ **ENTIRE AGREEMENT; 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.

~~12.19.12.17.~~ **THIRD PARTY RIGHTS.** 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.

~~12.20.12.18.~~ **BINDING NATURE.** This Contract shall not be binding upon the parties until it is approved and executed by both parties.

~~12.21-12.19.~~ **INTERPRETATION.** This Contract shall not be interpreted or construed against the drafting party.

~~12.22-12.20.~~ **PROHIBITION AGAINST ASSIGNMENT.** The Department 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 the organizational structure CONTRACTOR has caused to be created. 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 the Department. Further, CONTRACTOR shall notify the Department in writing as soon as is practical following (a) a merger with or an acquisition by any corporation, partnership, person, or other entity; (b) 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 (c) a change in the senior management of CONTRACTOR, senior management including its President, Chief Executive Officer, and the membership of its Board of Directors. If, in the reasonable judgment of the Department, 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, the Department reserves the right to terminate the Contract without liability or penalty to the Department.

~~12.23-12.21.~~ **ACCESS TO RECORDS.** The Department may unilaterally cancel this Contract for refusal by CONTRACTOR to allow public access to all documents, papers, letters, or other material originated or received by CONTRACTOR in conjunction with the Contract, subject to the provisions of Chapter 119, Florida Statutes.

~~12.24-12.22.~~ **NOTICES.** All notices shall be sent certified mail; return receipt requested to:

Department: Bureau Chief
Bureau of Private Prison Monitoring
Florida Department of Management Services
4050 Esplanade Way
Tallahassee, Florida 32399-0950

CONTRACTOR: _____

IN WITNESS WHEREOF, in order to be legally bound, the parties have caused their authorized representative to execute this Contract as of the date set forth above and below.

STATE OF FLORIDA,

DEPARTMENT OF MANAGEMENT SERVICES

BY: _____

Its: _____

DATE: _____

Approved as to form and legality:

[CONTRACTOR NAME]

BY: _____

Its: _____

DATE: _____

ATTEST: _____

Its: _____