

DIVISION OF ADMINISTRATIVE SERVICES  
OFFICE OF BUSINESS SERVICES9838 Old Placerville Road, Suite B-2  
Sacramento, CA 95827

April 24, 2014

Ross Mirkarimi, Sheriff  
County of San Francisco  
San Francisco Sheriff's Department  
City Hall, Room 456  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102

Dear Sheriff Mirkarimi:

**AGREEMENT NUMBER: 5600004123**  
**SERVICE: SECURE REENTRY PROGRAM FACILITY SERVICES**

Enclosed for your files is a fully executed Agreement Number: 5600004123 regarding the service(s) described above with the California Department of Corrections and Rehabilitation for the period of April 11, 2014 through June 30, 2016.

A copy of this Agreement has been forwarded to the Division of Rehabilitative Programs (DRP) and the Accounting Office, which is responsible for the payment of approved invoices. In order to expedite the payment process, please ensure all invoices submitted to the State are submitted in accordance with the payment provisions of this Agreement. Invoices must be accurate; reasonable for the services performed and costs incurred, and include all applicable receipts and necessary supporting documentation as stated in this Agreement. Every invoice must also clearly state the Agreement Number and the Purchase Order Number. If invoices are submitted electronically via email; email must include the name on the Agreement and Agreement Number in the subject line of the email. The email must include an attached PDF of the invoice(s) with reference to the institution name and invoice number.

<u>Fiscal Year</u>	<u>Work Completed During</u>	<u>Purchase Order Number</u>
2013/14	04/11/2014 to 06/30/2014	4400003391
2014/15	07/01/2014 to 06/30/2015	4400003392
2015/16	07/01/2015 to 06/30/2016	4400003393

If you have any questions or need assistance, do not hesitate to contact me at (916) 255-6138.

Sincerely,

*Rosalind Scott*Associate Governmental Program Analyst  
Headquarters Contract Unit #3  
Contracts Management Branch

Enclosure(s)

STATE OF CALIFORNIA  
**STANDARD AGREEMENT**  
 STD 213 (Rev 06/03)

AGREEMENT NUMBER <b>5600004123</b>
REGISTRATION NUMBER ep 1343772

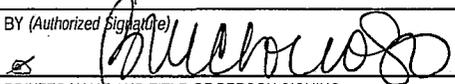
- This Agreement is entered into between the State Agency and the Contractor named below:
 

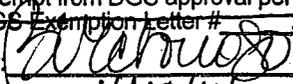
STATE AGENCY'S NAME California Department of Corrections and Rehabilitation
CONTRACTOR'S NAME County of San Francisco
- The term of this Agreement is: November 1, 2013 through June 30, 2016  
OR UPON APPROVAL
- The maximum amount of this Agreement is: \$4,195,576.00  
 Four Million, One Hundred Thousand Ninety-Five, Five Hundred Seventy-Six and Zero Cents
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	11 pages
Exhibit A-1 – Secure Reentry Program Facility Determination (CDCR 128B)	1 page
Exhibit A-2 – Secure Reentry Program Medical/Mental Health Information Form	2 pages
Exhibit B – Budget Detail and Payment Provisions	2 pages
Exhibit B-1 – Rate Sheet	1 page
Exhibit C* – General Terms and Conditions	GTC-610
Exhibit D – Special Terms and Conditions for Public Entity Agreements	13 pages
Exhibit E – Business Associates Agreement (HIPAA)	15 pages

Items shown with an Asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.  
 These documents can be viewed at [www.ols.dgs.ca.gov/Standard+Language](http://www.ols.dgs.ca.gov/Standard+Language)

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR	
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) County of San Francisco	
BY (Authorized Signature) 	DATE SIGNED (Do not type) 4-1-14 10/18/13
PRINTED NAME AND TITLE OF PERSON SIGNING Ross Mirkarimi, Sheriff	
ADDRESS San Francisco Sheriff's Department City Hall, Room 456 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102	
STATE OF CALIFORNIA	
AGENCY NAME California Department of Corrections and Rehabilitation	
BY (Authorized Signature) 	DATE SIGNED (Do not type) 4/1/14
PRINTED NAME AND TITLE OF PERSON SIGNING Bedeth Victorioso, Chief, Service Contracts Section	
ADDRESS 9838 Old Placerville Road, Suite B-2 Sacramento, CA 95827	

California Department of General Services Use Only
I hereby certify that all conditions for exemption have been complied with and this contract is exempt from the Department of General Services Approval. Exempt from DGS approval per DGS Exemption Letter #
By: 
Date: 4/1/14 BV
<input checked="" type="checkbox"/> Exempt per: 50105/35P

## SECURE REENTRY PROGRAM FACILITY

### 1. INTRODUCTION

The County of San Francisco, herein referred to as "County", shall provide for the care, confinement, and rehabilitative programming of the California Department of Corrections and Rehabilitation's (CDCR) state inmates in a Secure Reentry Program Facility (SRPF) pod. The services shall be provided at the San Francisco Jail Facilities throughout the term of this Agreement.

The California Penal Code (PC) section 4115.56 allows for the following:

- (a) Upon agreement with the sheriff or director of the county department of corrections, a board of supervisors may enter into a contract with the Department of Corrections and Rehabilitation to house inmates who are within 60 days or less of release from the state prison to a county jail facility for the purpose of reentry and community transition purposes.
- (b) When housed in county facilities, inmates shall be under the legal custody and jurisdiction of local county facilities and not under the jurisdiction of the Department of Corrections and Rehabilitation.

The County and the CDCR shall mutually agree upon the housing of state inmates by the County in the SRPF pursuant to PC Section 4115.56. Potentially eligible inmates are those who will be released to San Francisco County. CDCR reserves the right to include, with the approval of the San Francisco Sheriff, low-level inmates who will be paroled or released without supervision to San Francisco County. If this right is exercised, CDCR will provide the County with parole procedures and the facility will complete audits in accordance with San Francisco policy and American Correctional Association standards.

### 2. CONTRACTOR RESPONSIBILITIES

The County agrees to be responsible for ensuring the terms conditions and provisions of this Agreement. The County shall provide up to 56 beds per day as identified in Exhibit B-1. The County agrees to provide the necessary beds, subject to bed availability as determined by the County, for each subsequent fiscal year.

The County agrees to staff the facility to ensure supervision of state inmates and make available program services as provided herein. The County has the authority, when deemed necessary, to co-mingle state inmates with the County general population.

The County agrees to allow the CDCR reasonable access to state inmates when necessary. CDCR staff shall comply with policy and procedures for County Facility operations. The County agrees to facilitate security clearances and access as required for CDCR staff and/or state

representatives to designated space and accommodations. The County will provide CDCR staff with Hold and Warrant information upon completion of query.

The County and CDCR mutually agree to the following provisions:

a. Selection of State Inmates

Prior to the arrival of any CDCR inmate to San Francisco County, the CDCR shall provide to the San Francisco Adult Probation Department, copies of all classification data that is routinely included as part of CDCR 611, *Release Program Study*, packets, including commitment or other judicial orders, medical, mental health and dental clearance records. All CDCR inmate information shall be subject to statutory limitations on disclosure, including but not limited to State privacy laws, and provisions of the federal requirements per Exhibit E (HIPAA).

The County will review the classification, medical and disciplinary records of those inmates to be housed at the facility prior to transfer. The inmates will be reviewed on a case-by-case basis to determine eligibility. If the County determines, based on a review of the records, that an individual inmate may require a level of care than cannot be provided in this programmatic-intensive setting, the County will notify CDCR of the decision not accept the inmate into the program. The County shall provide to CDCR, within 15 days of receiving the eligibility review documents, the San Francisco Secure Reentry Program Determination form per Exhibit A-1 (Attachment 1).

Upon request of the County, CDCR shall provide Rules Violation Reports (CDCR Form 115) and/or Crime/Incident Reports (CDCR Form 837) on eligible state inmates. The CDCR will provide contact information for Classification and Parole Representatives (C&PR) at each institution to access these documents.

The County will be allowed access to the electronic Unit Health Records (UHR). The County will provide the name(s) and classification(s) of the County staff authorized to access this information. San Francisco County medical staff may case conference with the inmate's CDCR clinician on an as-needed basis in accordance with Exhibit E (HIPAA). CDCR will provide mental health and health care contact information for all institutions. All medication costs will be incurred by the County and is accounted for in the per diem rate per Exhibit B-1. Inmates released on parole or Post Release Community Supervision will receive a two weeks supply of prescribed medication. This two weeks supply will be transferred with the inmate to the SRPF.

b. Offender Funds

When a state inmate is placed in the SRPF, CDCR shall provide an Offender's current available Trust balance in the form of a check payable to the offender. CDCR will send the state inmates check to the County, in the amount due the offender within seven (7) business days of the transfer unless the County directs an alternate location.

c. Transportation

The County agrees to pick up state inmates (excluding medical transportation) once a week from San Quentin. CDCR agrees to deliver and receive all other state inmates to and from the designated San Francisco Jail Facility.

The County shall provide all medical transportation for state inmates between County and medical facilities. All normal transportations will occur Monday through Friday, 8:00 a.m. to 5:00 p.m. This Agreement shall not preclude delivery and pickup of individual state inmates prior to or after normal hours by the CDCR Transportation Unit staff or other law enforcement personnel. If this need occurs, the CDCR transportation staff will notify the County as soon as possible of estimated time of arrival.

d. Limitations on Authority to Release

The County agrees that no State inmate assigned to the County Facility by the CDCR shall be released on his or her own recognizance, on bail, on completion of local sentence, or for any other reason until the CDCR staff orders release in writing based on removal of the CDCR hold, or completion of state prison term. In the event of a release over the CDCR Detainer, the County shall attempt to apprehend the inmate and notify CDCR in accordance with subsection III X, Escapes, of this Agreement.

e. Inmate Discipline

State inmates assigned to the SRPF pursuant to this Agreement will be required to follow all applicable rules established by the Sheriff. The administration of discipline to state inmates and any resultant appeals by state inmates will be handled in accordance with the provisions in place for County inmates. The County will provide the CDCR with a copy of pending and adjudicated reports for all disciplinary actions related to State inmates, which shall be forwarded to the sending institution's, as noted on the CDCR Detainer, C&PR.

f. Gun Storage

The County shall provide storage space at the San Francisco County Jail for firearms brought to the facility by any CDCR peace officer who is on any official CDCR business.

g. Visiting Programs

Visitation will be provided to state inmates, but only to the extent and in the same manner as it is with County inmates.

h. Canteen/Trust Accounts

State inmates will have the right to access such accounts and make canteen purchases, but only to the extent and in the same manner as the County inmates. Net proceeds from canteen purchases will remain in the County Inmate Welfare Fund.

i. State Inmate's Property

The County will maintain state inmates' personal property, but only to the extent and in the same manner as County inmates. Perishable items and non-legal property in excess of 6 cubic

feet are not allowed. (Legal material is not included in the property restriction.) Property will be inventoried and sealed by the CDCR; the CDCR will process non-allowable county inmate property per the Department Operations Manual. Legal material will be inventoried and sealed separately from personal property. Inmates will not have access to their non-legal personal property while they are housed in the SRPF. (Inmates will be permitted access to their legal materials while in the County Facility.)

j. Recreational and Religious Programs

The County will provide recreational and religious program services for State inmates, but only to the extent and in the same manner as provided to County inmates.

k. Return of Inmates to the CDCR

Within 72 hours (excluding weekends and holidays) of receiving a good faith request (based on the diagnosis of a serious medical or mental health condition, on-going or serious disciplinary reasons, or inability to provide a level of custody consistent with the safety and security of the inmate and/or staff), the CDCR will accept custody of any state inmate which the County requests returned to the CDCR custody. The 72-hour threshold does not preclude CDCR nor the County from moving an inmate prior to 72 hours, given a mutually agreed upon alternative on a case-by-case basis.

State inmates whose behavior demonstrates unmanageable conduct will be removed upon request of the Facility Commander when such request is accompanied by a Sheriff's Request for Discipline form. The CDCR agrees to remove the subject state inmate within 72 hours (with the exception of weekends and holidays) in accordance with this subsection of the Agreement.

When a state inmate returns to the CDCR, the County shall provide that inmate's funds, in the form of a check payable to the CDCR, in the amount due the inmate for credit to the inmate's account within seven (7) business days of the inmate's transfer unless an alternate location is directed by the CDCR.

When a state inmate returns to the CDCR, the County shall provide a transfer summary of each inmate's program activities (work, education, etc.), infraction history, and other items deemed necessary by the CDCR and/or the County staff within ten (10) business days of the state inmate's transfer. In addition to such transfer summary, the CDCR will require written medical clearance for suitability for transport and a written summary of any medical concerns, which may affect said transport.

l. Medical Care

The County agrees that it shall be responsible to provide constitutionally adequate medical, dental, and mental health care to all state inmates, in conformity with the City and County of San Francisco Jail Health Services medical policies currently in existence and which have been previously provided to the CDCR. The County shall notify the CDCR of any changes to those policies.

The County expressly acknowledges and agrees that it:

1. Shall provide for all routine, non-routine and emergency medical care for State inmates housed at the SRPF in the same manner as to County inmates, regardless of cost. Long-term, non-routine medical services are the responsibility of the CDCR as described in the below paragraph, "Medical Need"; and
2. Will cooperate fully with the Federal Receiver appointed by the Court and will provide the Federal Receiver access to the County Facilities and to documents, personnel, and the state inmates in the county facilities. The Federal Receiver's access to documents and personnel shall relate only to such documents and personnel as are directly related to the delivery of medical care to the state inmates in the County Facilities.

Medical Need: If a state inmate requires non-routine medical services while in the care of the County, excluding injuries sustained at the SRPF, the CDCR retains the right to release the State's hold and/or remove said state inmate from the care of the County.

Should any cases arise that require extraordinary, medically necessary care that is outside the capability of the providers at the San Francisco County jails, including, but not limited to, specialty care, emergency care, in-patient care and/or special diagnostic testing, existing arrangements with local health care providers shall be utilized to obtain the required services. For non-emergent treatment, the Chief Medical Officer (CMO) of the sending institution shall be notified for evaluation of transfer back to CDCR for care. If emergency services are required, the County shall notify the sending institution CMO and the Office of Offender Services Program Analyst (PA) of the required emergency treatment at the earliest opportunity, but no later than 24 hours after the treatment.

At the time of transfer to the County, an original or copy of the inmate's Health Records shall be provided to the County, along with a Medical/Mental Health Information Summary per Exhibit A-2 (Attachment 2). UHR access should take the place of any hard copies. In addition, state inmates shall be evaluated for, and the CDCR shall provide, records documenting any mental health diagnoses, Americans with Disabilities Act (ADA) issues, special treatment needs or medication, pending appointments for laboratory or diagnostic tests, Purified Protein Derivative (PPD) status, and records from any recent hospitalizations or consultations. All records transferred to County are the property of the CDCR and shall be returned upon an inmate's transfer from the SRPF. Release of information shall be conducted in accordance with CDCR policy and only upon approval of the CDCR.

CDCR shall not be responsible for the payment of elective or experimental medical procedures or for medical care required as a result of negligence or intentional misconduct on the part of the County, its employees, or subcontractors or for care which could have foresee ably been prevented.

m. Inmate Programs

The County will conduct in-custody programming. The state inmates will be assessed, upon arrival at the SRPF, by a multidisciplinary team of caseworkers. The assessment will include the inmate's substance abuse, educational and vocational needs. Based on the assessment, staff will coordinate with each inmate to develop and implement an individual reentry plan to address their offense related behavior and criminogenic needs. The programming shall include, but is not limited to:

- Education: Delivered by the Sheriff's Five Keys Charter School, a year round accredited charter high school.
- Pre-Employment Training: Vocational and pre-employment training provided through contracted service providers.
- Religious Services: Provided in the same manner as provided to County inmates
- Cognitive Behavioral Therapy (CBT) Programs (i.e., Criminal Thinking, Anger Management, and Family Relationships) provided through contracted service providers. The County shall provide the CDCR's Office of Offender Services with a copy of the curriculum for each CBT program provided to the State inmates.
- Victim Offender Education: Provided through contracted service providers

Note: Substance Abuse Education/Treatment may be provided through the Department of Public Health or contracted service providers. The County shall provide the CDCR's Office of Offender Services with a copy of the approved curriculum. The duration of the program will vary based on the assessed level of care and aftercare will be coordinated based on indications through the assessment.

The County shall report to the State Legislature and the CDCR on the implementation of this SRPF after the period of one, two, and three years, as part of this pilot program. Each report shall include: (1) number of inmates who participated in the program; (2) number of inmates who received a risk and needs assessment; (3) criminogenic risk levels of participants; (4) criminogenic needs of participants; (5) services offered and provided to the participants; (6) the percentage of participants who had all their criminogenic needs addressed at the SRPF; and (7) outcome results including re-arrest rates of new crimes during the first 12 months post release, 24 and 36 months post release for participants.

n. Telephone

Access to telephone service shall be provided to the state inmates and will be handled only to the same extent and in the same manner as it is with the County inmates.

- o. Clothing  
Clothing will be provided to the state inmates, but only to the same extent and in the same manner as it is to County inmates.
- p. Meals  
The County will provide all the state inmates with nutritional meals in the same manner as it is to County inmates.
- q. Mail  
The County will provide all the state inmates with mail services in the same manner as it is to County inmates.
- r. Inmate Appeals  
Inmates appealing County decisions and actions shall be remedied via the County appeals process. The County shall retain final authority on all issues of appeal related to County decisions and actions.

The County will forward any CDCR related appeal or grievance to the sending institution, as noted on detainer, for response. CDCR will address inmate appeals/grievances related to the CDCR decisions while the inmate is housed with the County. CDCR shall retain final authority on all issues of appeal related to the CDCR decisions and actions.

- s. Access to Courts  
The County will provide all state inmates with court access in the same manner as it is to County inmates.
- t. Inmate Records and Progress Reports  
The County will maintain all CDCR inmate records in a secured location, non-accessible by other state inmates, county offenders, and unauthorized personnel.

All warrants/holds/detainers received by the County for a state inmate shall be forwarded to the C&PR at the CDCR-sending institution, as noted on the detainer, within 24 hours.

- u. Use of Force  
The County's use of force policy and training program for security staff shall be reviewed and approved by the CDCR prior to state inmates being transferred to the County. Following any use of force resulting in injuries to the state inmate or staff, an incident report shall be prepared. All reports will be submitted to CDCR.
- v. Escapes  
In the event of an escape by a CDCR inmate(s) from the SRPF or release over CDCR's Detainer, the County shall, in addition to efforts to apprehend such CDCR inmate, within 24 hours, notify the sending institution, as noted on the detainer; the CDCR Administrator of the

Day (AOD); and the CDCR I.D./Warrants Unit as required by State statute in the same manner it uses for any other Facility escapees.

w. Notification of Inmate Incidents, Emergencies, Escapes, and Discipline

The County will handle all state inmate related incidents, emergencies, and escapes. For serious incidents involving any CDCR inmate, the County will send the CDCR staff reports on the incident within 7 days.

The County will notify the sending institution, as noted on the detainer and the CDCR AOD immediately, by telephone for any:

1. CDCR inmate escape;
2. Use of deadly force involving a CDCR inmate;
3. Sexual assault, by an employee, inmate, or civilian involving a CDCR inmate;
4. Death of a CDCR inmate;
5. Rape of a CDCR inmate;
6. Hostage situation involving a CDCR inmate;
7. Felony behavior by staff involving CDCR inmates; or
8. Attempted suicide of a CDCR inmate

x. Public Information

The County will notify the CDCR of any public information requests or media inquiries or media waiver requests involving CDCR inmates to the Office of Public and Employee Communications' Public Information Officer at (916) 445-4950 or, after business hours, (916) 207-8085 or by e-mail at [OPEC.AOD@cdcr.ca.gov](mailto:OPEC.AOD@cdcr.ca.gov).

y. Offender Account Deductions (Restitution) Collection and Accounting

The County shall be responsible for collecting restitution from the wages and account deposits of inmates who owe restitution, pursuant to PC section 2085.5, as further detailed in the California Code of Regulations, Title 15, section 3097. The current restitution amount deducted is 50%, plus an administrative fee of 10% of the restitution deduction, for a maximum deduction of 55% of the inmate's wages and deposits, taking into consideration Title 15, subsection 3097(j) exemptions from the above deductions.

A Direct Restitution payment from outside the facility received as a "Restitution Only" payment will be applied 100% to the Victim's Direct Order &/or Fine waiving the Admin Fee. An inmate's request for a Voluntary payment from his Trust Account shall have the Admin Fee waived. County shall accept checks from CDCR to apply to inmate's Restitution Victim Direct Order, Fine &/or Trust Account as instructed by CDCR Inmate Account Branch (IAB) staff.

By entering into this agreement, the County acknowledges that the County is responsible for satisfying CDCR's restitution obligations under such regulations as they currently exist and as

they may be amended in the future. The County shall ensure sufficient staffing for carrying out these obligations and shall provide a computer with programming sufficient to perform all of the requirements specified for restitution account, collection and submission. The cost for staff position, computer and software shall be covered under the Per Diem Rate per Exhibit B-1.

CDCR shall provide the County the Inmate First & Last names, Inmate CDCR Numbers, Restitution Victim Direct Order & Restitution Fine Numbers, individual court assigned debt amount for each case assigned and individual balances of each inmate restitution debt. The County shall collect restitution debts beginning with the oldest dated Victim Direct Order first and resume collections until all Victim Direct Orders are paid in full as expressed in AB1505 (January 1, 2007). After all Victim Direct Orders have been satisfied, the County shall begin collection on the oldest Restitution Fine first and resume collection until all Restitution Fines are satisfied. The County shall have a means set in the computer for update purposes for collections that CDCR collects & informs the County to update the inmate's balance owing. This transaction will not be a monetary exchanged.

The County shall hold such funds in trust for CDCR for the purposes set forth in said statute and regulations, and shall not commingle such funds with the County's own funds or with any other funds. The County shall submit one check to CDCR for restitution collections and administrative fees for the prior month attached to an itemized statement reflecting individual collection amounts. Not: Victim Direct Orders & Fines may have the same case number but must be accounted for separately.

The County shall at all times keep an accurate and up-to-date accounting of all such funds and restitution information, and shall remit fund collections and associated inmate case information to CDCR as directed. By the 10<sup>th</sup> of each month following collections, the County shall forward the amount of restitution and administrative fees to:

CDCR - Inmate Account Branch Headquarters  
Attn: Restitution Collections,  
P O Box 276088,  
Sacramento CA 95827

The remittance shall include an itemized statement which includes the CDCR Number, Inmate First & Last names, designated Victim Direct Order(s) or Fine case number(s), individual collection date(s), individual restitution collection amount(s), and balance still owing shown by the County. In addition, the County shall provide an accounting of all such funds to CDCR at any time upon request. The County will send a copy of the itemized statement by electronic mail to CDCR's designated group of recipients' and the County will furnish an Accounting/Restitution Contact person.

CDCR Inmate Accounting Branch Contacts	
Inmate Restitution	
Christyne Mills (916) 255- 1028	Email: <a href="mailto:Christyne.Mills@cdcr.ca.gov">Christyne.Mills@cdcr.ca.gov</a>
Trishelle Woodfork (916) 255-1020	Email: <a href="mailto:Trishelle.Woodfork@cdcr.ca.gov">Trishelle.Woodfork@cdcr.ca.gov</a>

Any such restitution funds remaining in the County's possession at the end of the contract shall be remitted to the CDCR for proper disposition pursuant to said statute and regulations.

z. Release Funds

State inmates are entitled to funds to assist them with necessary expenses upon their release from prison. CDCR has designated San Quentin (SQ) State Prison, Case Records staff to facilitate inmate release funds in accordance with PC section 2713.1 and Title 15, section 3075.2. SQ will provide release fund checks and the original CDC Form 102, *Release Statement*, to the San Francisco County Jail (SFCJ) for distribution. The CDCR representative authorizing the transaction shall sign the original CDC Form 102 and the releasing inmate and a SFCJ staff shall sign as the witness. The SFCJ staff shall return the fully executed signed CDC Form 102 to SQ.

3. STANDARD CONDITIONS

a. Operation Review

The County Facility Commander and designated CDCR staff will meet, as needed, to discuss and resolve ongoing mutual administrative concerns and operational problems. An agenda will be prepared and the items discussed will be properly noted in meeting minutes with copies distributed as directed by the Sheriff and the CDCR. If the County and the CDCR cannot resolve mutual disagreements related to direct state inmate operational problems, CDCR will remove the inmate(s) in accordance with subsection 2, M, Return of State Inmates, of this Agreement.

b. Performance Measures

The CDCR and/or Federal Receiver shall have the right to inspect and/or audit the SRPF at its discretion. The County reserves the right to deny access during off hours (defined as the period before 8 a.m. and after 5 p.m.) to individuals not identified previously to them either in this Agreement or otherwise in writing. In such event, prior to denying authorization, the County shall first contact the CDCR staff for direction and/or approval authority. The County reserves the right to request proper identification prior to admission in all cases. The County requires 48-hour notice prior to an inspection.

CDCR may conduct audits, and a copy of any such audit shall be provided to the County. If CDCR identifies deficiencies or non-compliance, the County shall be required to complete and return a Corrective Action Plan (CAP) and monitor timely compliance with required corrective actions. The County shall respond to the CAP within 30 days.

c. Failure to Perform Services

Should the County fail to adequately perform the services under the terms of this Agreement, the County may not be permitted to continue to perform services. CDCR shall state in writing

the reasons the County does not meet the Agreement standards. The County is required to comply with any CAP issued as a result of a performance evaluation.

Continued failure to provide and/or improve services within the timeframe(s) established in the CAP(s) may result in a termination of the Agreement.

4. **AGREEMENT COMPENSATION**

The State agrees to reimburse the County in accordance with Exhibit B-1 of this Agreement.

5. **AMERICANS WITH DISABILITIES ACT OF 1990**

By signing this contract, the County assures the State that it complies with the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. section 12101 et seq., which prohibits discrimination on the basis of disability and with applicable regulations and guidelines issued pursuant to the ADA.

6. **CDCR CONTACT INFORMATION**

Should questions or issues arise during the term of this Agreement, the County should contact the following CDCR offices for assistance:

**Scope of Services/Performance Issues:**

Division of Rehabilitative Programs\Office of Offender Services  
Nikki Gunter, Staff Services Manager II  
Phone Number: (916) 323-1764  
Fax Number: (916) 323-1162  
Email: [nikki.gunter@cdcr.ca.gov](mailto:nikki.gunter@cdcr.ca.gov)

**Billing/Payment Issues:**

Division of Rehabilitative Programs  
Attention: Invoice Unit – Rosie Lozano-Vasquez  
1515 S Street Room 410-S  
Sacramento, CA 95811  
Phone Number: (916) 322-8374  
Fax Number: (916) 322-1453  
Email: [rosie.lozano-vasquez@cdcr.ca.gov](mailto:rosie.lozano-vasquez@cdcr.ca.gov)

**General Contract Issues:**

Office of Business Services  
Phone Number: (916) 255-5624  
Fax Number: (916) 255-6187

# Attachment 1

NAME AND NUMBER _____	# _____	CDCR-128-B
On _____ this inmate was: Date		
<input type="checkbox"/> <b>ACCEPTED</b> for referral to the San Francisco Secure Reentry Program. Name to be added to the SRPF Waiting List and submitted to CSR for endorsement.		
<input type="checkbox"/> <b>REJECTED</b> for referral in the San Francisco Secure Reentry Program.		
COMPLETED BY: _____		TITLE: _____
SIGNATURE: _____		
Original: C-file		
cc: SRPF		
Inmate		
DATE: _____	<b>SF SECURE REENTRY PROGRAM DETERMINATION</b>	GENERAL CHRONO

7/18/13

## Attachment 2

### Secure Reentry Program Medical/Mental Health Information

Offender:

Name: \_\_\_\_\_

CDCR # \_\_\_\_\_

Institution Chief Medical Executive: \_\_\_\_\_

Phone # w/Extension: \_\_\_\_\_

Email address \_\_\_\_\_

Institution Chief Psychologist: \_\_\_\_\_

Phone # w/Extension: \_\_\_\_\_

Email address \_\_\_\_\_

Special Housing:  CTC  OHU  EOP  PSU

Acute Medical Problems:

---

Chronic Medical Problems and Degree of Control:

7/18/13

Psychiatric Diagnoses:

Medications: (attach medication list)

Current Chronos:

Pending Specialty Appointments:

Hospitalizations in last 6 months (with reason for hospitalization):

7/18/13

**1. Invoicing and Payment**

- a. For services satisfactorily rendered, and upon receipt and approval of Contractor's invoices, the State agrees to compensate the Contractor in accordance with the rates specified herein on Exhibit B-1 Rate Sheet, and made a part of this Agreement. Exhibit B-1 Rate Sheet shall remain in force for the stated term of this Agreement and shall include every item of expense, direct and indirect, including taxes incidental to the specified rates.
- b. Invoices shall include the Agreement Number and a copy of the (name of county report) which shall include the state inmates' names, CDCR numbers, date of placement into the Secure Reentry Program Facility (SRPF), and the date of release from the SRPF, if appropriate. Invoices shall be submitted in triplicate not more frequently than monthly in arrears to Contract Beds Unit (CBU) for review:

**Submit Invoices to:**

California Department of Corrections and Rehabilitation  
Contract Beds Unit  
ATTN: Brian Coates  
10961 Sun Center Drive  
Rancho Cordova, CA 95670  
Phone Number: (916) 464-4001  
Fax Number: (916) 464-5130

- c. CBU shall forward reviewed invoices to Division of Rehabilitative Programs (DRP). All payments shall be processed by Division of Rehabilitative Programs (DRP)

California Department of Corrections and Rehabilitation  
Division of Rehabilitative Programs  
Attn: Invoice Unit – Rosie Lozano-Vasquez  
1515 S Street Room 410-S  
Sacramento, CA 95811  
Phone Number: (916) 322-8374  
Fax Number: (916) 322-1453

**2. Budget Contingency Clause**

- a. It is mutually agreed that if the California State Budget Act for the current fiscal year and/or any subsequent fiscal years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor, or to furnish any other considerations under this Agreement, and Contractor shall not be obligated to perform any provisions of this Agreement.



**SECURE REENTRY PROGRAM FACILITY**

<u>Fiscal Year</u>	<u>Per Diem Rate Per Inmate</u>	<u>x</u>	<u>Maximum Daily Bed Use</u>	<u>x</u>	<u>Total Days</u>	<u>=</u>	<u>Budget Amount</u>	
13/14	\$77.00*	x	56*	x	242	=	\$1,043,504.00	
14/15	\$77.00*	x	56*	x	365	=	\$1,573,880.00	
15/16	\$77.00*	x	56*	x	366	=	<u>\$1,578,192.00</u>	
<b>Total Budget Amount</b>								<b>\$4,195,576.00</b>

The California Department of Corrections and Rehabilitation (CDCR), is allocated \$4,195,576.00 for the life of this agreement, Upon Approval through June 30, 2016, and agrees to reimburse the County of San Francisco for daily bed space in the Secure Reentry Program Facility. Any fraction thereof shall be computed at Seventy-Seven Dollars and Zero Cents (\$77.00) per day or any part of a day, such costs having been determined by CDCR to reimburse the County of San Francisco for the costs incurred.

CDCR is prohibited from reimbursing the County of San Francisco more than the amount authorized within the Governor's Budget Act for the three (3) year pilot term.

\*Maximum Daily Bed Use is the maximum amount of beds available for this program in San Francisco County.

1. Contract Disputes with Public Entities (Supersedes provision number 6, Disputes, of Exhibit C)

As a condition precedent to Contractor's right to institute and pursue litigation or other legally available dispute resolution process, if any, Contractor agrees that all disputes and/or claims of Contractor arising under or related to the Agreement shall be resolved pursuant to the following processes. Contractor's failure to comply with said dispute resolution procedures shall constitute a failure to exhaust administrative remedies.

Pending the final resolution of any such disputes and/or claims, Contractor agrees to diligently proceed with the performance of the Agreement, including the delivering of goods or providing of services. Contractor's failure to diligently proceed shall constitute a material breach of the Agreement.

The Agreement shall be interpreted, administered, and enforced according to the laws of the State of California. The parties agree that any suit brought hereunder shall have venue in Sacramento, California, the parties hereby waiving any claim or defense that such venue is not convenient or proper.

A county, city, district or other local public body, state board or state commission, another state or federal agency, or joint-powers authority shall resolve a dispute with CDCR, if any, through a meeting of representatives from the entities affected. If the dispute cannot be resolved to the satisfaction of the parties, each entity may thereafter pursue its right to institute litigation or other dispute resolution process, if any, available under the laws of the State of California.

2. Confidentiality of Information

CDCR and Provider agree that all inmate/patient health information is identified as confidential and shall be held in trust and confidence and shall be used only for the purposes contemplated under this Agreement.

Provider by acceptance of this Agreement is subject to all of the requirements of the federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (Code of Federal Regulations (CFR), Title 45, Sections 164.501 et seq.); the California Government Code Section 11019.9; California Civil Code Sections 56 et seq.; and California Civil Code Sections 1798, et seq.; regarding the collections, maintenance, and disclosure of personal and confidential information about individuals. Attached as Exhibit "G" and incorporated herein is a Business Associate Agreement which memorializes the parties' duties and obligations with respect to the protection, use, and disclosure of protected health information.

3. Confidentiality of Data

All financial, statistical, personal, technical and other data and information relating to State's operation, which are designated confidential by the State and made available to carry out this Agreement, or which become available to the Contractor in order to carry out this Agreement, shall be protected by the Contractor from unauthorized use and disclosure.

If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used with the written consent of the State. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data already rightfully in the Contractor's possession that is independently developed by the Contractor outside the scope of the Agreement or is rightfully obtained from third parties.

No reports, information, inventions, improvements, discoveries, or data obtained, repaired, assembled, or developed by the Contractor pursuant to this Agreement shall be released, published, or made available to any person (except to the State) without prior written approval from the State.

Contractor by acceptance of this Agreement is subject to all of the requirements of California Government Code Section 11019.9 and California Civil Code Sections 1798, et seq., regarding the collection, maintenance, and disclosure of personal and confidential information about individuals.

#### 4. Accounting Principles

The Contractor will adhere to generally accepted accounting principles as outlined by the American Institute of Certified Public Accountants. Dual compensation is not allowed; a contractor cannot receive simultaneous compensation from two or more funding sources for the same services performed even though both funding sources could benefit.

#### 5. Taxes

Unless required by law, the State of California is exempt from federal excise taxes.

#### 6. Right to Terminate (Supersedes provision number 7, Termination for Cause, of Exhibit C)

The parties hereto agree that either party may cancel this Agreement by giving the other party written notice thirty (30) days in advance of the effective date of such cancellation. In the event of such termination, the State agrees to pay Contractor for actual services rendered up to and including the date of termination.

The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

#### 7. Contract Suspension

Notwithstanding any other provisions of this Agreement, pursuant to a Governor's Executive Order or equivalent directive, such as a court order or an order from a federal or state regulatory agency, mandating the suspension of state contracts, the State may issue a Suspension of Work Notice. The Notice shall identify the specific Executive Order or directive and the Agreement number(s) subject to suspension. Unless specifically stated otherwise, all performance under the Agreement(s) must stop

immediately upon receipt of the Notice. During the period of contract suspension, Contractor is not entitled to any payment for the suspended work. Once the order suspending state contracts has been lifted, a formal letter from the Department will be issued to the Contractor to resume work.

#### 8. Extension of Term

If it is determined to be in the best interest of the State, upon agreement, the State may extend this contract, with no increase in service cost, for a period of one (1) year or less.

#### 9. Contractor Employee Misconduct

During the performance of this Agreement, it shall be the responsibility of the Contractor whenever there is an incident of use of force or allegation(s) of employee misconduct associated with and directly impacting inmate and/or parolee rights, to immediately notify the CDCR of the incident(s), to cause an investigation to be conducted, and to provide CDCR with all relevant information pertaining to the incident(s). All relevant information includes, but is not limited to: a) investigative reports; b) access to inmates/parolees and the associated staff pursuant to state law; c) access to employee personnel records pursuant to state law; d) that information reasonably necessary to assure CDCR that inmates and/or parolees are not or have not been deprived of any legal rights as required by law, regulation, policy and procedures; and e) written evidence that the Contractor has taken such remedial action, in the event of unnecessary or excessive force, or employee misconduct with inmates and/or parolees, as will assure against a repetition of incident(s) or retaliation. To the extent that the information provided by the Contractor fails to so assure CDCR, CDCR may require that any implicated Contractor staff be denied access to and the supervision of CDCR inmates and/or parolees at the facility and access to inmate and/or parolee records. Notwithstanding the foregoing, and without waiving any obligation of the Contractor, CDCR retains the power to conduct an independent investigation of any incident(s). Furthermore, it is the responsibility of the Contractor to include the foregoing terms within any and all subcontracts, requiring that subcontractor(s) agree to the jurisdiction of CDCR to conduct an investigation of their facility and staff, including review of subcontractor employee personnel records, as a condition of the Agreement.

#### 10. Subcontracting

Services provided are to be performed primarily with the staff of the public entity or, in the case of educational institutions, auxiliaries or foundations, by the faculty, staff or students associated with the particular institution. Agreements are not to be used by state agencies to circumvent the competitive bidding requirements of Public Contract Code Section 10340.

If more than twenty-five (25) percent of the total contract amount or \$50,000.00, whichever is less, is subcontracted, non-competitive bid approval must be obtained from the Secretary of CDCR and the Department of General Services prior to the commencement of services, unless the subcontract was competitively bid or the subcontractor(s) also qualifies as a state agency, governmental agency, or joint power.

#### 11. Subcontractor/Consultant Information

Contractor is required to identify all subcontractors and consultants who will perform labor or render services in the performance of this Agreement. Additionally, the Contractor shall notify the Department of Corrections and Rehabilitation, Office of Business Services, in writing, within ten (10) working days, of any changes to the subcontractor and/or consultant information.

#### 12. Liability for Nonconforming Work

The Contractor will be fully responsible for ensuring that the completed work conforms to the agreed upon terms. If nonconformity is discovered prior to the Contractor's deadline, the Contractor will be given a reasonable opportunity to cure the nonconformity. If the nonconformity is discovered after the deadline for the completion of the project, CDCR, in its sole discretion, may use any reasonable means to cure the nonconformity. The Contractor shall be responsible for reimbursing CDCR for any additional expenses incurred to cure such defects.

#### 13. Temporary Nonperformance

If, because of mechanical failure or for any other reason, the Contractor shall be temporarily unable to perform the work as required, the State, during the period of the Contractor's inability to perform, reserves the right to accomplish the work by other means and shall be reimbursed by the Contractor for any additional costs above the Agreement price.

#### 14. Contract Violations

The Contractor acknowledges that any violation of Chapter 2, or any other chaptered provision of the Public Contract Code (PCC), is subject to the remedies and penalties contained in PCC Sections 10420 through 10425.

#### 15. Employment of Ex-Offenders

Contractor cannot and will not either directly, or on a subcontract basis, employ in connection with this Agreement:

- a. Ex-Offenders on active parole or probation, who have been on active parole or probation during the last three years preceding their employment;
  1. Contractor shall only employ ex-offenders who can provide written evidence of having satisfactorily completed parole or probation, and who have remained off parole or probation, and have had no arrests or convictions within the past three years.
- b. Ex-offenders convicted of drug trafficking in a prison/jail; escape or aiding/abetting escape; battery on a Peace Officer or Public Official; arson offenses; or, any violations of Penal Code Sections 4570-4574 (unauthorized Communications with Prisons and Prisoners Offenses).
- c. Ex-Offenders are required to register as a sex offender pursuant to Penal Code Section 290.

- d. Any ex-offender who has an offense history involving a “violent felony” as defined in subparagraph (c) of Penal Code Section 667.5; or
- e. Any ex-offender in a position which provides direct supervision of parolees.

An ex-offender whose assigned duties involve administrative or policy decision-making, accounting, procurement, cashiering, auditing, or any other business-related administrative function shall be fully bonded to cover any potential loss to the State or contractor. Evidence of such bond shall be supplied to CDCR prior to employment of the ex-offender.

## 16. Conflict of Interest

The Contractor and their employees shall abide by the provisions of Government Code (GC) Sections 1090, 81000 et seq., 82000 et seq., 87100 et seq., and 87300 et seq., Public Contract Code (PCC) Sections 10335 et seq. and 10410 et seq., California Code of Regulations (CCR), Title 2, Section 18700 et seq. and Title 15, Section 3409, and the Department Operations Manual (DOM) Section 31100 et seq. regarding conflicts of interest.

### a. Contractors and Their Employees

Consultant contractors shall file a Statement of Economic Interests, Fair Political Practices Commission (FPPC) Form 700 prior to commencing services under the Agreement, annually during the life of the Agreement, and within thirty (30) days after the expiration of the Agreement. Other service contractors and/or certain of their employees may be required to file a Form 700 if so requested by the CDCR or whenever it appears that a conflict of interest may be at issue. Generally, service contractors (other than consultant contractors required to file as above) and their employees shall be required to file an FPPC Form 700 if one of the following exists:

- (1) The Agreement service has been identified by the CDCR as one where there is a greater likelihood that a conflict of interest may occur;
- (2) The Contractor and/or Contractor’s employee(s), pursuant to the Agreement, makes or influences a governmental decision; or
- (3) The Contractor and/or Contractor’s employee(s) serves in a staff capacity with the CDCR and in that capacity participates in making a governmental decision or performs the same or substantially all the same duties for the CDCR that would otherwise be performed by an individual holding a position specified in the CDCR’s Conflict of Interest Code.

### b. Current State Employees

- (1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- (2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
- (3) In addition to the above, CDCR officials and employees shall also avoid actions resulting in or creating an appearance of:
  - (a) Using an official position for private gain;
  - (b) Giving preferential treatment to any particular person;

- (c) Losing independence or impartiality;
  - (d) Making a decision outside of official channels; and
  - (e) Affecting adversely the confidence of the public or local officials in the integrity of the program.
- (4) Officers and employees of the Department must not solicit, accept or receive, directly or indirectly, any fee, commission, gratuity or gift from any person or business organization doing or seeking to do business with the State.

**c. Former State Employees**

- (1) For the two year (2-year) period from the date he or she left state employment, no former state officer or employee may enter into an Agreement in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the Agreement while employed in any capacity by any state agency.
- (2) For the twelve-month (12-month) period from the date he or she left state employment, no former state officer or employee may enter into an Agreement with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed Agreement within the 12-month period prior to his or her leaving state service.

In addition to the above, the Contractor shall avoid any conflict of interest whatsoever with respect to any financial dealings, employment services, or opportunities offered to inmates or parolees. The Contractor shall not itself employ or offer to employ inmates or parolees either directly or indirectly through an affiliated company, person or business unless specifically authorized in writing by CDCR. In addition, the Contractor shall not (either directly, or indirectly through an affiliated company, person or business) engage in financial dealings with inmates or parolees, except to the extent that such financial dealings create no actual or potential conflict of interest, are available on the same terms to the general public, and have been approved in advance in writing by CDCR. For the purposes of this paragraph, "affiliated company, person or business" means any company, business, corporation, nonprofit corporation, partnership, limited partnership, sole proprietorship, or other person or business entity of any kind which has any ownership or control interest whatsoever in the Contractor, or which is wholly or partially owned (more than 5% ownership) or controlled (any percentage) by the Contractor or by the Contractor's owners, officers, principals, directors and/or shareholders, either directly or indirectly. "Affiliated companies, persons or businesses" include, but are not limited to, subsidiary, parent, or sister companies or corporations, and any company, corporation, nonprofit corporation, partnership, limited partnership, sole proprietorship, or other person or business entity of any kind that is wholly or partially owned or controlled, either directly or indirectly, by the Contractor or by the Contractor's owners, officers, principals, directors and/or shareholders.

The Contractor shall have a continuing duty to disclose to the State, in writing, all interests and activities that create an actual or potential conflict of interest in performance of the Agreement.

The Contractor shall have a continuing duty to keep the State timely and fully apprised in writing of any material changes in the Contractor's business structure and/or status. This includes any changes in business form, such as a change from sole proprietorship or partnership into a corporation or vice-versa; any changes in company ownership; any dissolution of the business; any change of the name of the business; any filing in bankruptcy; any revocation of corporate status by the Secretary of State; and

any other material changes in the Contractor's business status or structure that could affect the performance of the Contractor's duties under the Agreement.

If the Contractor violates any provision of the above paragraphs, such action by the Contractor shall render this Agreement void.

Members of boards and commissions are exempt from this section if they do not receive payment other than payment for each meeting of the board or commission, payment for preparatory time and payment for per diem.

#### 17. Travel

Contractor's rates shall include all travel expenses required to perform services in accordance with this contract.

#### 18. Notification of Personnel Changes

Contractor must notify the State, in writing, of any changes of those personnel allowed access to State premises for the purpose of providing services under this Agreement. In addition, Contractor must recover and return any State-issued identification card provided to Contractor's employee(s) upon their departure or termination.

#### 19. Security Clearance/Fingerprinting

The State reserves the right to conduct fingerprinting and/or security clearance—through the Department of Justice, Bureau of Criminal Identification and Information (BCII)—prior to award and at any time during the term of the Agreement, in order to permit Contractor (and/or Contractor employee) access to State premises. The State further reserves the right to terminate the Agreement should a threat to security be determined.

#### 20. Computer Software

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

#### 21. Expendable Equipment

Expendable equipment is defined as expendable items which change with use and have a unit acquisition cost of less than \$5,000 per unit (i.e. fax machines, computers, printers, etc.). Title to any expendable equipment purchased or built with State funds as part of this agreement will vest in the State. The Contractor must retain a listing of expendable equipment purchases that are considered "theft-sensitive" items, such as cameras, calculators, two-way radios, computer equipment, etc., for audit purposes. Upon completion or termination of the agreement, Contractors are required to leave all expendable equipment for use by subsequent contractors or for the State to dispose of accordingly. The State may authorize the continued use of such equipment for work to be performed under a different agreement.

The cost of expendable equipment purchased should be comparable to the prevailing price for similar items in the surrounding area.

## 22. Electronic Waste Recycling

The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

## 23. Liability for Loss and Damages

Any damages by the Contractor to the State's facility including equipment, furniture, materials or other State property, will be repaired or replaced by the Contractor to the satisfaction of the State at no cost to the State. The State may, at its option, repair any such damage and deduct the cost thereof from any sum due Contractor under this Agreement.

## 24. Disclosure

Neither the State nor any State employee will be liable to the Contractor or its staff for injuries inflicted by inmates or parolees of the State. The State agrees to disclose to the Contractor any statement(s) known made by any inmate or parolee which indicate violence may result in any specific situation, and the same responsibility will be shared by the Contractor in disclosing such statement(s) to the State.

## 25. Workers' Compensation

Contractor hereby represents and warrants that Contractor is currently and shall, for the duration of this agreement, carry workers' compensation insurance, at Contractor's expense, or that it is self-insured through a policy acceptable to CDCR, for all of its employees who will be engaged in the performance of this agreement. Such coverage will be a condition of CDCR's obligation to pay for services provided under this agreement.

Prior to approval of this agreement and before performing any work, Contractor shall furnish to the State evidence of valid workers' compensation coverage. Contractor agrees that the workers' compensation insurance shall be in effect at all times during the term of this agreement. In the event said insurance coverage expires or is canceled at any time during the term of this agreement, Contractor agrees to give at least thirty (30) days prior notice to CDCR before said expiration date or immediate notice of cancellation. Evidence of coverage shall not be for less than the remainder of the term of the agreement or for a period of not less than one year. The State reserves the right to verify the Contractor's evidence of coverage. In the event the Contractor fails to keep workers' compensation insurance coverage in effect at all times, the State reserves the right to terminate this agreement and seek any other remedies afforded by the laws of this State.

Contractor also agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all of Contractor's workers' compensation claims and losses by Contractor's officers, agents and employees related to the performance of this agreement.

## 26. Insurance Requirements

Insurance as required herein shall be a condition of the State's obligation to pay for services provided under this Agreement. Prior to approval of this Agreement and before performing any work, Contractor and any subcontractor shall furnish to the State evidence of valid coverage. The following shall be considered evidence of coverage: A certificate of insurance, a "true and certified" copy of the policy, or any other proof of coverage issued by Contractor's insurance carrier. Binders are not acceptable as evidence of coverage. Providing evidence of coverage to the State conveys no rights or privileges to the State, nor does it insure any State employee or insure any premises owned, leased, used by or otherwise or under the control of the State. It does, however, serve to provide the State with proof that the Contractor and any subcontractors are insured at the minimum levels required by the State of California.

Contractor agrees that any liability insurance required in the performance of this Agreement shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires or is canceled during the term of this Agreement, Contractor shall provide the State within five (5) business days of receipt by contractor a copy of any notice of cancellation or non-renewal of insurance required by the contract. Evidence of coverage required in the performance of this Agreement shall not be for less than the remainder of the term of this Agreement or for a period of not less than one year. The State and the Department of General Services (DGS) reserve the right to verify the Contractor's evidence of coverage; evidence of coverage is subject to the approval of the DGS. In the event the Contractor fails to keep insurance coverage as required herein in effect at all times, the State reserves the right to terminate this Agreement and to seek any other remedies afforded by the laws of the State of California.

Contractor hereby represents and warrants they (and any subcontractors) are currently and shall for the duration of this Agreement be insured. Contractor shall provide proof of self-insurance

## 27. Tuberculosis (TB) Testing

In the event that the services required under this Agreement will be performed within a CDCR institution/parole office/community-based program, prior to the performance of contracted duties, Contractors and their employees who are assigned to work with inmates/parolees on a regular basis shall be required to be examined or tested or medically evaluated for TB in an infectious or contagious stage, and at least once a year thereafter or more often as directed by CDCR. Regular basis is defined as having contact with inmates/parolees in confined quarters more than once a week.

Contractors and their employees shall be required to furnish to CDCR, at no cost to CDCR, a form CDCR 7336, "Employee Tuberculin Skin Test (TST) and Evaluation," prior to assuming their contracted duties and annually thereafter, showing that the Contractor and their employees have been examined and found free of TB in an infectious stage. The form CDCR 7336 will be provided by CDCR upon Contractor's request.

*The following provisions apply to services provided on departmental and/or institution grounds:*

**28. Blood borne Pathogens**

Provider shall adhere to California Division of Occupational Safety and Health (CAL-OSHA) regulations and guidelines pertaining to blood borne pathogens.

**29. Primary Laws, Rules, and Regulations Regarding Conduct and Association with State Prison Inmates and Division of Juvenile Justice Wards**

Individuals who are not employees of the California Department of Corrections and Rehabilitation (CDCR), but who are working in and around inmates who are incarcerated, or wards who are housed within California's institutions/facilities or camps, are to be apprised of the laws, rules and regulations governing conduct in associating with prison inmates or wards. The following is a summation of pertinent information when non-departmental employees come in contact with prison inmates or wards.

By signing this contract, the Contractor agrees that if the provisions of the contract require the Contractor to enter an institution/facility or camp, the Contractor and any employee(s) and/or subcontractor(s) shall be made aware of and shall abide by the following laws, rules and regulations governing conduct in associating with prison inmates or wards:

- a. Persons who are not employed by CDCR, but are engaged in work at any institution/facility or camp must observe and abide by all laws, rules and regulations governing the conduct of their behavior in associating with prison inmates or wards. Failure to comply with these guidelines may lead to expulsion from CDCR institutions/facilities or camps.

SOURCE: California Penal Code (PC) Sections 5054 and 5058; California Code of Regulations (CCR), Title 15, Sections 3285 and 3415, and California Welfare and Institutions Code (WIC) Section 1712.

- b. CDCR does not recognize hostages for bargaining purposes. CDCR has a "NO HOSTAGE" policy and all prison inmates, wards, visitors, and employees shall be made aware of this.

SOURCE: PC Sections 5054 and 5058; CCR, Title 15, Section 3304 and 4603; WIC Section 1712.

- c. All persons entering onto institution/facility or camp grounds consent to search of their person, property or vehicle at any time. Refusal by individuals to submit to a search of their person, property, or vehicle may be cause for denial of access to the premises.

SOURCE: PC Sections 2601, 5054 and 5058; CCR, Title 15, Sections 3173, 3177, 3288, 4696, and 4697; WIC 1712.

- d. Persons normally permitted to enter an institution/facility or camp may be barred, for cause, by the CDCR Director, Warden, and/or Regional Parole Administrator.

SOURCE: PC Sections 5054 and 5058; CCR, Title 15, Section 3176 (a) and 4696; WIC Section 1712.

- e. It is illegal for an individual who has been previously convicted of a felony offense to enter into CDCR adult institutions/facilities or camps, or youth institutions/facilities or camps in the nighttime, without the prior approval of the Warden or officer in charge. It is also illegal for an individual to enter onto these premises for unauthorized purposes or to refuse to leave said premises when requested to do so. Failure to comply with this provision could lead to prosecution.

SOURCE: PC Sections 602, 4570.5 and 4571; CCR, Title 15, Sections 3173 and 3289; WIC Section 1001.7.

- f. Encouraging and/or assisting prison inmates to escape, is a crime. It is illegal to bring firearms, deadly weapons, explosives, tear gas, drugs or drug paraphernalia on CDCR institutions/facilities or camp premises. It is illegal to give prison inmates or wards firearms, explosives, alcoholic beverages, narcotics, or any drug or drug paraphernalia, including cocaine or marijuana. It is illegal to give wards sex oriented objects or devices, and written materials and pictures whose sale is prohibited to minors.

SOURCE: PC Sections 2772, 2790, 4533, 4535, 4550, 4573, 4573.5, 4573.6 and 4574; WIC Section 1152, CRR, Title 15, sections 4681 and 4710; WIC Section 1001.5.

- g. It is illegal to give or take letters from inmates or wards without the authorization of the Warden or officer in charge. It is also illegal to give or receive any type of gift and/or gratuities from prison inmates or wards.

SOURCE: PC Sections 2540, 2541 and 4570; CCR, Title 15, Sections 3010, 3399, 3401, 3424, 3425 and 4045; WIC Section 1712.

- h. In an emergency situation the visiting program and other program activities may be suspended.

SOURCE: PC Section 2601; CCR, Title 15, Section 3383, 4002.5 and 4696.

- i. For security reasons, visitors must not wear clothing that in any way resembles state issued prison inmate or ward clothing (blue denim shirts, blue denim pants).

SOURCE: CCR, Title 15, Section 3174 (b) (1) and 4696.

- j. Interviews with SPECIFIC INMATES are not permitted. Conspiring with an inmate to circumvent policy and/or regulations constitutes a rule violation that may result in appropriate legal action. Interviews with individual wards are permitted with written consent of each ward if he is 18 years of age or older, or with written consent of a parent, legal guardian, or committing court, if 17 years of age or younger.

SOURCE: CCR, Title 15, Sections 3261.5, 3315 (a) (3) (X), and 3177 and 4700(a)(1).

### 30. Clothing Restrictions

While on institution grounds, Contractor and all its agents, employees, and/or representatives shall be professionally and appropriately dressed in clothing distinct from that worn by inmates at the institution. Specifically, blue denim pants and blue chambray shirts, orange/red/yellow/white/chartreuse jumpsuits and/or yellow rainwear shall not be worn onto institution grounds, as this is inmate attire. Contractor should contact the institution regarding clothing restrictions prior to requiring access to the institution to assure the Contractor and their employees are in compliance.

### 31. Tobacco-Free Environment

Pursuant to Penal Code Section 5030.1, the use of tobacco products by any person on the grounds of any institution or facility under the jurisdiction of the Department of Corrections and Rehabilitation is prohibited.

### 32. Prison Rape Elimination Policy

CDCR is committed to providing a safe, humane, secure environment, free from sexual misconduct. This will be accomplished by maintaining a program to ensure education/prevention, detection, response, investigation and tracking of sexual misconduct and to address successful community re-entry of the victim. The CDCR shall maintain a zero tolerance for sexual misconduct in its institutions, community correctional facilities, conservation camps and for all offenders under its jurisdiction. All sexual misconduct is strictly prohibited.

As a contractor with the CDCR, you and your staff are expected to ensure compliance with this policy as described in Department Operations Manual, Chapter 5, Article 44.

### 33. Security Regulations

- a. Unless otherwise directed by the entrance gate officer and/or Contract Manager, the Contractor, Contractor's employees and subcontractors shall enter the institution through the main entrance gate and park private and nonessential vehicles in the designated visitor's parking lot. Contractor, Contractor's employees and subcontractors shall remove the keys from the ignition when outside the vehicle and all unattended vehicles shall be locked and secured while on institution grounds.
- b. Any State- and Contractor-owned equipment used by the Contractor for the provision of contract services, shall be rendered temporarily inoperative by the Contractor when not in use, by locking or other means unless specified otherwise.
- c. In order to maintain institution safety and security, periodic fire prevention inspections and site searches may become necessary and Contractor must furnish keys to institutional authorities to access all locked areas on the worksite. The State shall in no way be responsible for Contractor's loss due to fire.

- d. Due to security procedures, the Contractor, Contractor's employees and subcontractors may be delayed at the institution vehicle/pedestrian gates and sally ports. Any loss of time checking in and out of the institution gates and sally ports shall be borne by the Contractor.
- e. Contractor, Contractor's employees and subcontractors shall observe all security rules and regulations and comply with all instructions given by institutional authorities.
- f. Electronic and communicative devices such as pagers, cell phones and cameras/microcameras are not permitted on institution grounds.
- g. Contractor, Contractor's employees and subcontractors shall not cause undue interference with the operations of the institution.
- h. No picketing is allowed on State property.

### 34. Gate Clearance

Contractor and Contractor's employee(s) and/or subcontractor(s) must be cleared prior to providing services. The Contractor will be required to complete a Request for Gate Clearance for all persons entering the facility a minimum of ten (10) working days prior to commencement of service. The Request for Gate Clearance must include the person's name, social security number, valid state driver's license number or state identification card number and date of birth. Information shall be submitted to the Contract Liaison or his/her designee. CDCR uses the Request for Gate Clearance to run a California Law Enforcement Telecommunications System (CLETS) check. The check will include Department of Motor Vehicles check, Wants and Warrants check, and Criminal History check.

Gate clearance may be denied for the following reasons: Individual's presence in the institution presents a serious threat to security, individual has been charged with a serious crime committed on institution property, inadequate information is available to establish positive identity of prospective individual, and/or individual has deliberately falsified his/her identity.

All persons entering the facilities must have a valid state driver's license or photo identification card on their person.

## BUSINESS ASSOCIATES AGREEMENT (HIPAA)

### SECURE REENTRY PROGRAM FACILITY

WHEREAS, Provider, hereinafter referred to in this Exhibit as "Business Associate," acknowledges that the CDCR, hereinafter referred to in this Exhibit as "Covered Entity," has in its possession data that contains individual identifiable health information as defined by Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 ("HIPAA") and the regulations promulgated thereunder;

WHEREAS, Business Associate and Covered Entity acknowledge that the fulfillment of the Parties' obligations under this Service Agreement necessitates the exchange of, or access to, data including individual identifiable health information; and,

WHEREAS, the parties desire to comply with federal and California laws regarding the use and disclosure of individually identifiable health information, and in particular with the provisions of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the regulations promulgated thereunder.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the Parties agree as follows:

### ARTICLE 1 DEFINITIONS

Terms used, but not otherwise defined, in this Exhibit shall have the meanings set forth below.

- 1.1 "HHS Transaction Standard Regulation" means the Code of Federal Regulations ("CFR") at Title 45, Sections 160 and 162.
- 1.2 "Individual" means the subject of protected health information (PHI) or, if deceased, his or her personal representative.
- 1.3 "Parties" shall mean the Covered Entity and Business Associate. (Covered Entity and Business Associate, individually, may be referred to as a "Party".)
- 1.4 "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- 1.5 "PHI" shall have the same meaning as the term "protected health information" in 45 CFR §164.501, limited to the information created or received by Business Associate from or on behalf of the Covered Entity.
- 1.6 "Required By Law" shall have the same meaning as "required by law" in 45 CFR §164.501.

- 1.7 "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

Any other terms used, but not otherwise defined, in this Exhibit shall have the same meaning as those terms in the Privacy Rule.

## ARTICLE 2 CONFIDENTIALITY

- 2.1 Obligations and Activities of Business Associate. Business Associate agrees as follows:

- (a) not to use or further disclose PHI other than as permitted or required by this Agreement or as Required By Law;
- (b) to establish, maintain, and use appropriate safeguards to prevent use or disclosure of the PHI other than as permitted herein;
- (c) to report to Covered Entity any use, access or disclosure of the PHI not provided for by this Agreement, or any misuse of the PHI, including but not limited to systems compromises of which it becomes aware and to mitigate, to the extent practicable, any harmful effect that is known to Business Associate as a result thereof. Business Associate shall be responsible for any and all costs (including the costs of Covered Entity) associated with mitigating or remedying any violation of this Agreement;
- (d) to enforce and maintain appropriate policies, procedures, and access control mechanisms to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information. The access and privileges granted to any such agent shall be the minimum necessary to perform the assigned functions;
- (e) to provide access, at the request of Covered Entity, and in the time and manner reasonable designated by Covered Entity, to PHI in a Designated Record Set (as defined in the Privacy Rule), to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR §164.524;
- (f) to make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity or an Individual, and in the time and manner reasonably requested by Covered Entity.
- (g) to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner reasonably requested by Covered Entity or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

- (h) to document such disclosures of PHI, and information related to such disclosures, as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528. Said documentation shall include, but not be limited to, the date of the disclosure, the name and, if known, the address of the recipient of the PHI, a brief description of the PHI disclosed, and the purpose of the disclosure. Said documentation shall be made available to Covered Entity upon request.
- (i) to provide to Covered Entity or an Individual, in a time and manner reasonably requested by Covered Entity, information collected in accordance with Section 2.1(h) above to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528.
- (j) to promptly notify Covered Entity of all actual or suspected instances of deliberate unauthorized attempts (both successful and unsuccessful) to access PHI. Such notice shall be made to Covered Entity by telephone as soon as Business Associate becomes aware of the unauthorized attempt, and this telephone notification shall be followed within two (2) calendar days of the discovery of the unauthorized attempt by a written report to Covered Entity from Business Associate. Business Associate shall, at the same time, report to Covered Entity any remedial action taken, or proposed to be taken, with respect to such unauthorized attempt. Covered Entity shall have the discretion to determine whether or not any such remedial action is sufficient, and all such remedial action shall be at Business Associate's expense.
- (k) to maintain and enforce policies, procedures and processes to protect physical access to hardware, software and/or media containing PHI (e.g., hardcopy, tapes, removable media, etc. ) against unauthorized physical access during use, storage, transportation, disposition and /or destruction.
- (l) to ensure that access controls in place to protect PHI and processing resources from unauthorized access are controlled by two-factor identification and authentication: a user ID and a Token, Password or Biometrics.
- (m) to implement, use and monitor its compliance with appropriate technological, administrative and physical safeguards to prevent the use or disclosure of PHI other than as permitted by this Agreement. Business Associate shall provide Covered Entity with evidence of such safeguards upon Covered Entities request. Covered Entity has the right to determine, in its sole discretion, whether such safeguards are appropriate, and to require any additional safeguards it deems necessary.
- (n) In the event that Business Associate is served with legal process (e.g. a subpoena) or request from a governmental agency (e.g. the Secretary) that potentially could require the disclosure of PHI, Business Associate shall provide prompt (i.e., within twenty-four (24) hours) written notice of such legal process (including a copy of the legal process served) to the designated person at the Covered Entity. In addition, Business Associate shall not disclose the PHI without the consent of Covered Entity unless pursuant to a valid and specific court order or to comply with a requirement for review of documents by a

governmental regulatory agency under its statutory or regulatory authority to regulate the activities of either party.

- (o) to submit to periodic audits by Covered Entity verifying Business Associate's compliance with appropriate technological, administrative and physical safeguards to prevent the use or disclosure of PHI other than as permitted by this Agreement, as well as compliance with the terms and conditions pursuant to this Agreement and compliance with state and federal laws and regulations. Audit review may be undertaken directly by the Covered Entity or by third parties engaged by the Covered Entity. Business Associate shall cooperate fully with Covered Entity or any such third party in connection with such audits.

## 2.2 Disclosures Required By Law.

In the event that Business Associate is required by law to disclose PHI, Business Associate will immediately provide Covered Entity with written notice and provide Covered Entity an opportunity to oppose any request for such PHI or to take whatever action Covered Entity deems appropriate.

## 2.3 Specific Use and Disclosure Provisions.

- (a) Except as otherwise limited in this Agreement, Business Associate may use PHI only to carry out the legal responsibilities of the Business Associate under this Service Agreement.
- (b) Except as otherwise limited in this Agreement, Business Associate may only disclose PHI (i) as Required By Law, or (ii) in the fulfillment of its obligations under the Service Agreement and provided that Business Associate has first obtained (A) the consent of Covered Entity for such disclosure, (B) reasonable assurances from the person to whom the information is disclosed that the PHI will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and (C) reasonable assurances from the person to whom the information is disclosed that such person will notify the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

## 2.4 Obligations of Covered Entity.

- (a) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity in accordance with 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosures of PHI.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (d) For any PHI received by Covered Entity from Business Associate on behalf of a third party or another covered entity, Covered Entity agrees to be bound to the obligations and activities of Business Associate enumerated in Section 2.1 as if and to the same extent Covered Entity was the named Business Associate hereunder.

2.5 Permissible Requests by Covered Entity.

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

2.6 Policy and Procedure Review.

Upon request, Business Associate shall make available to Covered Entity any and all documentation relevant to the safeguarding of PHI including but not limited to current policies and procedures, operational manuals and/or instructions, and/or employment and/or third party agreements.

## ARTICLE 3 SECURITY

### 3.1 Government Healthcare Program Representations.

Business Associate hereby represents and warrants to Covered Entity, its shareholders, members, directors, officers, agents, or employees have not been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or state healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or state law (including without limitation a plea of nolo contendere or participation in a first offender deterred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a federal or state healthcare program, (c) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by any federal, state or local government agency, (d) the unlawful, manufacture, distribution, prescription, or dispensing of a controlled substance, or (e) interference with or obstruction of any investigation into any criminal offense described in (a) through (d) above. Business Associate further agrees to notify Covered Entity immediately after Business Associate becomes aware that the foregoing representation and warranty may be inaccurate or may be incorrect.

### 3.2 Security Procedures.

Each Party shall employ security procedures that comply with HIPAA and all other applicable state and federal laws and regulations (collectively, the "Law") and that are commercially reasonable, to ensure that transactions, notices, and other information that are electronically created, communicated, processed, stored, retained or retrieved are authentic, accurate, reliable, complete and confidential. Moreover, each Party shall, and shall require any agent or subcontractor involved in the electronic exchange of data to:

- (a) require its agents and subcontractors to provide security for all data that is electronically exchanged between Covered Entity and Business Associate;
- (b) provide, utilize, and maintain equipment, software, services and testing necessary to assure the secure and reliable transmission and receipt of data containing PHI;
- (c) maintain and enforce security management policies and procedures and utilize mechanisms and processes to prevent, detect, record, analyze, contain and resolve unauthorized access attempts to PHI or processing resources;
- (d) maintain and enforce policies and guidelines for workstation use that delineate appropriate use of workstations to maximize the security of data containing PHI;

- (e) maintain and enforce policies, procedures and a formal program for periodically reviewing its processing infrastructure for potential security vulnerabilities;
- (f) implement and maintain, and require its agents and subcontractors to implement and maintain, appropriate and effective administrative, technical and physical safeguards to protect the security, integrity and confidentiality of data electronically exchanged between Business Associate and Covered Entity, including access to data as provided herein. Each Party and its agents and subcontractors shall keep all security measures current and shall document its security measures implemented in written policies, procedures or guidelines, which it will provide to the other Party upon the other Party's request.

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**ARTICLE 4**  
**EXCHANGE OF STANDARD TRANSMISSIONS**

4.1 Obligations of the Parties. Each of the Parties agrees that for the PHI,

- (a) it will not change any definition, data condition or use of a data element or segment as proscribed in the HHS Transaction Standard Regulation.
- (b) it will not add any data elements or segments to the maximum denied data set as proscribed in the HHS Transaction Standard Regulation.
- (c) it will not use any code or data elements that are either marked "not used" in the HHS Standard's implementation specifications or are not in the HHS Transaction Standard's implementation specifications.
- (d) it will not change the meaning or intent of any of the HHS Transaction Standard's implementation specifications.

4.2 Incorporation of Modifications to HHS Transaction Standards.

Each of the Parties agrees and understands that from time-to-time, HHS may modify and set compliance dates for the HHS Transaction Standards. Each of the Parties agrees to incorporate by reference into this Agreement any such modifications or changes.

4.3 Code Set Retention.

If applicable, both parties understand and agree to keep open code sets being processed or used in this Agreement for at least the current billing period or any appeal period, which ever is longer.

4.4 Business Associate Obligations.

- (a) Business Associate shall not submit duplicate transmissions unless so requested by Covered Entity.
- (b) Business Associate shall only perform those transactions, which are authorized by Covered Entity. Furthermore, Business Associate assumes all liability for any damage, whether direct or indirect, to the electronic data or to Covered Entity's systems caused by Business Associate's unauthorized use of such transactions.
- (c) Business Associate shall hold Covered Entity harmless from any claim, loss or damage of any kind, whether direct or indirect, whether to person or property, arising out of or related to (1) Business Associate's use or unauthorized disclosure of the electronic data; or (2) Business Associate's submission of data, including but not limited to the submission of incorrect, misleading, incomplete or fraudulent data.

- (d) Business Associate agrees to maintain adequate back-up files to recreate transmissions in the event that such recreations become necessary. Back-up tapes shall be subject to this Agreement to the same extent as original data.
- (e) Business Associate agrees to trace lost or indecipherable transmissions and make reasonable efforts to locate and translate the same. Business Associate shall bear all costs associated with the recreation of incomplete, lost or indecipherable transmissions if such loss is the result of an act or omission of Business Associate.
- (f) Business Associate shall maintain, for seven (7) years, true copies of any source documents from which it produces electronic data.
- (g) Except encounter data furnished by Business Associate to Covered Entity, Business Associate shall not (other than to correct errors) modify any data to which it is granted access under this Agreement or derive new data from such existing data. Any modification of data is to be recorded, and a record of such modification is to be retained by Business Associate for a period of seven (7) years.
- (h) Business Associate shall not disclose security access codes to any third party in any manner without the express written consent of Covered Entity. Business Associate furthermore acknowledges that Covered Entity may change such codes at any time without notice. Business Associate shall assume responsibility for any damages arising from its disclosure of the security access codes or its failure to prevent any third party use of the system without the express written consent of Covered Entity.
- (i) Business Associate shall maintain general liability coverage, including coverage for general commercial liability, for a limit of not less than one million dollars, as well as other coverage as Covered Entity may require to compensate any parties damaged by Business Associate's negligence. Business Associate shall provide evidence of such coverage in the form of a certificate of insurance and agrees to notify Covered Entity and/or HOI immediately of any reduction or cancellation of such coverage.
- (j) Business Associate agrees to conduct testing with Covered Entity to ensure delivery of files that are HIPAA-AS Compliant and to accommodate Covered Entity's specific business requirements.

#### 4.5 Confidential And Proprietary Information

(a) Proprietary Information

Business Associate acknowledges that it will have access to certain proprietary information used in Covered Entity's business. Covered Entity's proprietary information derives its commercial value from the fact that it is not available to competitors or any third parties, and the disclosure of this information would or could impair Covered Entity's competitive position or otherwise prejudice its ongoing business. Business Associate agrees to treat as confidential, and shall not use for its own commercial purpose or any other purpose,

Covered Entity's proprietary information. Business Associate shall safeguard Covered Entity's proprietary information against disclosure except as may be expressly permitted herein. Such proprietary information includes, but is not limited to, confidential information concerning the business operations or practices of Covered Entity, including specific technology processes or capabilities.

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## ARTICLE 5 MISCELLANEOUS

### 5.1 Indemnification.

Business Associate shall indemnify, defend, and save harmless the State, CDCR, and CDCR's officers, employees and agents, against any and all losses, liabilities, settlements, claims, demands, damages, or deficiencies (including interest) and expenses of any kind (including, but not limited to, attorneys' fees) arising out of or due to a breach of the terms of this Exhibit to the Service Agreement, and arising out of Business Associate's acts or omissions in regard to the terms of this Exhibit to the Service Agreement. The foregoing indemnity is in addition to any other save harmless or indemnification set forth in this entire Agreement.

### 5.2 Term and Termination.

- (a) Term. The Term of this Agreement shall be effective as of the first date of commencement of services under this entire agreement, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause. Upon a material breach by Business Associate of its obligation hereunder, Covered Entity may (i) terminate this Agreement and the Service Agreement; (ii) permit Business Associate to cure the breach; (iii) report the violation to the Secretary; and/or (iv) require Business Associate to take such other action as Covered Entity may request, at Business Associate's expense.

Covered Entity's remedies under this paragraph shall be cumulative, and the exercise of any remedy shall not preclude the exercise of any other. If Covered Entity elects to terminate the Agreement pursuant to a breach of terms and conditions of this Exhibit, Covered Entity shall be relieved of any further obligations under the entire Agreement, and shall be immediately entitled to a refund of any amounts prepaid from the date of the termination through the end of the payment period, on a pro rata basis.

The foregoing termination language is in addition to any other termination language set forth in the entire agreement.

(c) Effect of Termination.

(i) Except as provided in paragraph 5.2(c)(ii), upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

(ii) In the event that Business Associate determines that returning the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon Covered Entity's agreement that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

5.3 Disputes.

HIPAA Appeal Procedures

CDCR has established and shall maintain an appeal procedure in accordance with CDCR Department Operations Manual, Section 22040.16. Business Associate agrees that disputes arising under the terms of this Exhibit shall be resolved in accordance with the following:

1. Verbal Appeal

Business Associate and CDCR's Privacy Officer, shall first attempt to resolve the problem by informal discussion. Business Associate agrees that CDCR's Division of Correctional Health Care Services shall be used as a resource in solving potential disputes.

2. Informal Appeal

If the issue is not resolved at the verbal appeal level, Business Associate shall file, within thirty (30) working days, an informal written appeal specifying: the issue(s) of dispute, legal authority or other basis for Business Associate's position, supporting evidence, and remedy sought, with the CDCR Chief, Licensing and Information Systems, and provide a photocopy to the CDCR Assistant Deputy Director, Office of Business Services. The CDCR Chief, Licensing and Information Systems, shall make a determination on the issue and respond in writing within thirty (30) working days of receipt of the informal appeal, indicating the decision reached.

3. Formal Appeal

Should Business Associate disagree with the informal appeal decision, Business Associate shall submit, within ten (10) working days after Business Associate's receipt of the decision of the informal appeal, to the CDCR Deputy Director, Division of Correctional Health Care Services, and a photo copy to the CDCR, Assistant Deputy Director, Office of Business Services, written notification indicating why the informal appeal decision is unacceptable, along with a copy of the original statement of dispute and a copy of CDCR's response. The CDCR Deputy Director, Division of Correctional Health Care Services, or his/her designee may meet

with Business Associate to review the issues within twenty (20) working days of the receipt of Business Associate's notification and shall provide Business Associate with written notification of the decision within forty-five (45) working days from the receipt of the formal appeal.

The foregoing dispute process is solely for the purpose of disputes arising from the terms and conditions of this Exhibit. Disputes in relation to the scope of work and other terms and conditions shall be in accordance with any other dispute language set forth in the entire Agreement.

5.4 Injunctive Relief.

Notwithstanding any rights or remedies provided for in Section 5.3, Covered Entity retains all rights to seek injunctive relief to prevent the unauthorized use of disclosure of PHI by Business Associate or any agent, contractor or third party that received PHI from Business Associate.

5.5 Regulatory References.

A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

5.6 Amendment.

The Parties agree to take such action as is necessary to amend this Agreement from time to time to the extent necessary for Covered Entity to comply with the requirements of HIPAA and its regulations. All amendments to this Exhibit shall be in writing and signed by both parties through a formal amendment to the entire agreement.

5.7 Survival.

The respective rights and obligations of Business Associate and Covered Entity under Sections 4.5, 5.1 and 5.2(c) of this Agreement shall survive the termination of this Agreement.

5.8 Limitation of Damages.

Other than liabilities under Section 5.1, neither party shall be liable to the other for any special, incidental, exemplary, punitive or consequential damages arising from or as a result of any delay, omission, or error in the electronic transmission or receipt of any information pursuant to this Agreement, even if the other Party has been advised of the possibility of such damages.

5.9 Interpretation.

Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.

5.10 Third Party Beneficiary

Unless otherwise set forth herein, nothing contained herein is intended, nor shall it be construed, to create rights running of the benefit of third parties.

5.11 Notices

Any HIPAA related notice required hereunder shall be deemed to be sufficient if mailed to the parties at the addresses below. In order to avoid unreasonable delay in the provision of the services to be rendered pursuant to this Agreement, Business Associate and Covered Entity shall each designate a specific "HIPAA" representative(s) for the purpose of communication between the parties. Such representative(s) may be changed upon written notice to the other party.

Business Associate:

Ross Mirkarimi, Sheriff  
San Francisco Sheriff's Department  
City Hall, Room 456  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Telephone: (415) 554-7225  
Facsimile: (415) 554-7050

Covered Entity:

California Department of Corrections and Rehabilitation  
Privacy Officer  
HIPAA Compliance Unit  
Division of Correctional Health Care Services  
P.O. Box 942883  
Sacramento, CA 94283-0001

Telephone: (916) 327-1842  
Facsimile: (916) 327-0545