

**City and County of San Francisco
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685**

**Agreement between the City and County of San Francisco and
Keefe Commissary Network, L.L.C.**

This Agreement is made this First day of September 2014, in the City and County of San Francisco, State of California, by and between: **Keefe Commissary Network, L.L.C.**, 13369 Valley Boulevard, Fontana, CA 92335, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing."

Recitals

WHEREAS, the San Francisco Sheriff's Department ("SFSD") ("Department") wishes to contract for commissary and inmate trust fund services; and,

WHEREAS, a Request for Proposal ("RFP") was issued on January 24, 2014, and City selected Contractor as the highest qualified scorer pursuant to the RFP; and

WHEREAS, Contractor represents and warrants that it is qualified to perform the services required by City as set forth under this Contract; and,

Now, THEREFORE, the parties agree as follows:

1. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation. This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

2. Term of the Agreement. Subject to Section 1, the term of this Agreement shall be from September 1, 2014 to August 31, 2017. In addition, the City shall have two (2) options to extend the term, for a period of one year each, by mutual agreement in writing. The maximum contract period shall not be more than five (5) years.

3. Effective Date of Agreement. This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

4. Services Contractor Agrees to Perform. The Contractor agrees to perform the services provided for in Appendix A, "Description of Services," Appendix C, "Scope of Services-Armored Car Services", Appendix D, "Scope of Deposit Services for Website, Call Center, Kiosks, Lockbox, and Walk-In", and Appendix E, "Scope of Services, Responsibilities and Authorizations for Secure Release™ Prepaid Debit Card Release", all of which are attached hereto and incorporated by reference as though fully set forth herein.

5. Compensation. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San Francisco Sheriff's Department ("Department") as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments.

- a. The Contractor will submit to the Department a weekly invoice representing inmate purchases during that week. The Department will transmit payment of the invoice from the Inmate Trust Fund to the Contractor within thirty (30) days of the receipt of the invoice.
- b. The Contractor will submit to the Department a weekly invoice representing inmate indigent and medical kits purchases during that week. The Department will transmit payment of the invoice from the Inmate Welfare Fund within thirty (30) days of the receipt of the invoice.
- c. The Contractor will supply to the Department a report of gross inmate commissary sales and net inmate commissary sales each accounting month. (Net sales are defined as gross sales minus sales tax and U.S. Postal Service pre-stamped envelopes). Commissary commissions (43.0% of net sales) will be paid by the Contractor within 20 days of the close of each month, with the check made out to the Inmate Welfare Fund.
- d. The Contractor will submit an annual accounting of commission payments commencing at the end of the first completed month of service after implementation, through a 12 month period, and at the end of each year thereafter, to insure that commission payments meet or exceed the \$590,000 guaranteed minimum. It is expected Contractor will be fully operational by September 1, 2014; therefore this period would be September 1, 2014 through August 31, 2015. The Contractor shall submit a payment within thirty (30) days to bring the amount to the guaranteed annual minimum.

6. Guaranteed Maximum Costs. The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

7. Payment; Invoice Format. Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include a unique invoice number. All amounts paid by City to Contractor shall be subject to audit by City. Payment shall be made by City to Contractor at the address specified in the section entitled "Notices to the Parties."

8. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at [http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1). A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

9. Left Blank by agreement of the parties (Disallowance).

10. Taxes

- a. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor.
- b. Contractor recognizes and understands that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

1) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest;

2) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

3) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

4) Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

11. Payment Does Not Imply Acceptance of Work. The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

12. Qualified Personnel. Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.

13. Responsibility for Equipment. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City.

14. Independent Contractor; Payment of Taxes and Other Expenses

a. **Independent Contractor.** Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees.

Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

b. **Payment of Taxes and Other Expenses.** Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability). A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

15. Insurance

a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

- 1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
- 2) Commercial General Liability Insurance with limits not less than \$2,000,000 each occurrence and \$4,000,000 aggregate for Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and
- 3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable; and

4) Crime Policy Insurance, Contractor shall maintain throughout the term of this contract, at no expense to City, Crime Policy (Employee Dishonesty Coverage) covering all officers and employees in an amount not less than the total value of funds held in the Commissary account with any deductible not to exceed \$100,000 and including City as additional obligee or loss payee as its interest may appear; and

5) Technology Errors and Omissions liability insurance with limits of not less than \$1,000,000 each claim and \$2,000,000 general aggregate with respect to failure against programming errors, software performance, failure to perform work as agreed, and errors and omissions in connection with the Products and Services provided under this Agreement.

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

d. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section.

e. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

f. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

g. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

h. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of

California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

i. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

j. If a subcontractor will be used to complete any portion of this agreement, the Contractor shall ensure that the subcontractor shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insureds.

16. Indemnification. Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, arising directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City. In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter. Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

17. Incidental and Consequential Damages. Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

18. Liability of City. CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 5 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS

AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

19. Left blank by agreement of the parties. (Liquidated Damages).

20. Default; Remedies

a. Each of the following shall constitute an event of default ("Event of Default") under this Agreement:

1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

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| 8. Submitting False Claims; Monetary Penalties. | 37. Drug-free workplace policy |
| 10. Taxes | 53. Compliance with laws |
| 15. Insurance | 55. Supervision of minors |
| 24. Proprietary or confidential information of City | 57. Protection of private information |
| 30. Assignment | |

2) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten days after written notice thereof from City to Contractor.

3) Contractor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (e) takes action for the purpose of any of the foregoing.

4) A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Contractor.

b. On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement.

c. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

21. Termination for Convenience

a. City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

b. Upon receipt of the notice, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Agreement on the date specified by City and to minimize the liability of Contractor and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions shall include, without limitation:

1) Halting the performance of all services and other work under this Agreement on the date(s) and in the manner specified by City.

2) Not placing any further orders or subcontracts for materials, services, equipment or other items.

3) Terminating all existing orders and subcontracts.

4) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

5) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

6) Completing performance of any services or work that City designates to be completed prior to the date of termination specified by City.

7) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

c. Within 30 days after the specified termination date, Contractor shall submit to City an invoice, which shall set forth each of the following as a separate line item:

1) The reasonable cost to Contractor, without profit, for all services and other work City directed Contractor to perform prior to the specified termination date, for which services or work City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for services or other work. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.

2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all services

and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

3) The reasonable cost to Contractor of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

4) A deduction for the cost of materials to be retained by Contractor, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the services or other work.

d. In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City, except for those costs specifically enumerated and described in the immediately preceding subsection (c). Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under such subsection (c).

e. In arriving at the amount due to Contractor under this Section, City may deduct: (1) all payments previously made by City for work or other services covered by Contractor's final invoice; (2) any claim which City may have against Contractor in connection with this Agreement; (3) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection (d); and (4) in instances in which, in the opinion of the City, the cost of any service or other work performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or other work, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.

f. City's payment obligation under this Section shall survive termination of this Agreement.

22. Rights and Duties upon Termination or Expiration

This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement:

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| 8. Submitting false claims | 24. Proprietary or confidential information of City |
| 9. Disallowance | 26. Ownership of Results |
| 10. Taxes | 27. Works for Hire |
| 11. Payment does not imply acceptance of work | 28. Audit and Inspection of Records |
| 13. Responsibility for equipment | 48. Modification of Agreement. |
| 14. Independent Contractor; Payment of Taxes and Other Expenses | 49. Administrative Remedy for Agreement Interpretation. |
| 15. Insurance | 50. Agreement Made in California; Venue |
| 16. Indemnification | 51. Construction |
| 17. Incidental and Consequential Damages | 52. Entire Agreement |
| 18. Liability of City | 56. Severability |

57. Protection of private information

Subject to the immediately preceding sentence, upon termination of this Agreement prior to expiration of the term specified in Section 2, this Agreement shall terminate and be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this Agreement.

23. Conflict of Interest. Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

24. Proprietary or Confidential Information of City. Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

25. Notices to the Parties. Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail or by fax, and shall be addressed as follows:

To City: **Bree Mawhorter, Chief Financial Officer**
San Francisco Sheriff's Department
1 Dr. Carlton B. Goodlett Place, Room 456
San Francisco, CA 94103
Bree.mawhorter@sfgov.org
Fax# (415) 554-7050

To Contractor: **Terry Schroeder, Vice President, Western Region**
Keefe Commissary Network, LLC.
13369 Valley Blvd.
Fontana, CA 92335
tschroeder@keefegroup.com
Fax# (909) 357-2352

Any notice of default must be sent by registered mail.

26. Ownership of Results. Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

27. Works for Hire. If, in connection with services performed under this Agreement, Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Contractor or its subcontractors under this Agreement are not works for hire under U.S. law, Contractor hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

28. Audit and Inspection of Records. Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this Section.

29. Subcontracting. Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

30. Assignment. The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement.

31. Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

32. Earned Income Credit (EIC) Forms. Administrative Code section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these

forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found. Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Contractor of the terms of this Agreement. If, within thirty days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law. Any Subcontract entered into by Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

33. Local Business Enterprise Utilization; Liquidated Damages

a. **The LBE Ordinance.** Contractor, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Contractor's obligations or liabilities, or materially diminish Contractor's rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Contractor's obligations under this Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

b. Compliance and Enforcement

1) **Enforcement.** If Contractor willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City's Contracts Monitoring Division or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of CMD") may also impose other sanctions against Contractor authorized in the LBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor's LBE certification. The Director of CMD will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to

Administrative Code §14B.17. By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the CMD shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City. Contractor agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of CMD or the Controller upon request.

34. Nondiscrimination; Penalties

a. **Contractor Shall Not Discriminate.** In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. **Subcontracts.** Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. **Nondiscrimination in Benefits.** Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. **Condition to Contract.** As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contracts Monitoring Division (formerly 'Human Rights Commission').

e. **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for

each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

35. MacBride Principles—Northern Ireland. Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

36. Tropical Hardwood and Virgin Redwood Ban. Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

37. Drug-Free Workplace Policy. Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

38. Resource Conservation. Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

39. Compliance with Americans with Disabilities Act. Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

40. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors’ bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization’s net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

41. Public Access to Meetings and Records. If the Contractor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Contractor shall comply with and be bound by all the applicable provisions of that Chapter. By executing

this Agreement, the Contractor agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Contractor further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Contractor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Agreement. The Contractor further acknowledges that such material breach of the Agreement shall be grounds for the City to terminate and/or not renew the Agreement, partially or in its entirety.

42. Limitations on Contributions. Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

43. Requiring Minimum Compensation for Covered Employees

a. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's

obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

c. Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

d. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

f. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

g. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

h. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

i. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

44. Requiring Health Benefits for Covered Employees

Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same

may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

b. Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

h. Contractor shall keep itself informed of the current requirements of the HCAO.

i. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

l. City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

m. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

45. First Source Hiring Program

a. Incorporation of Administrative Code Provisions by Reference.

The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

b. First Source Hiring Agreement.

As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Contractor shall enter into a first source hiring agreement ("agreement") with the City, on or before the effective date of the contract or property contract. Contractors shall also enter into an agreement with the City for any other work that it performs in the City. Such agreement shall:

1) Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs maybe certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.

2) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole

discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

4) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

6) Set the term of the requirements.

7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.

8) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.

9) Require the developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

c. Hiring Decisions

Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

d. **Exceptions**

Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

e. **Liquidated Damages.**

Contractor agrees:

- 1) To be liable to the City for liquidated damages as provided in this section;
- 2) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;
- 3) That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.
- 4) That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;
- 5) That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:
 - (a) The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and
 - (b) In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year;

Therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

6) That the failure of contractors to comply with this Chapter, except property contractors, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law; and

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

f. **Subcontracts.**

Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

46. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

47. Preservative-treated Wood Containing Arsenic. Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

48. Modification of Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement. Contractor shall cooperate with Department to submit to the Director

of CMD any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this Agreement by more than 20% (CMD Contract Modification Form).

49. Administrative Remedy for Agreement Interpretation. Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to Purchasing who shall decide the true meaning and intent of the Agreement.

50. Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

51. Construction. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

52. Entire Agreement. This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 48, "Modification of Agreement."

53. Compliance with Laws. Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

54. Services Provided by Attorneys. Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

55. Left blank by agreement of the parties. (Supervision of Minors)

56. Severability. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

57. Protection of Private Information. Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

58. Not Used.

59. Food Service Waste Reduction Requirements. Effective June 1, 2007, Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

60. Left blank by agreement of the parties. (Slavery Era Disclosure)

61. Cooperative Drafting. This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

CONTRACTOR

Recommended by:

Keefe Commissary Network, LLC.




Ross Mirkarimi
Sheriff
San Francisco Sheriff's Department

By signing this Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.


Approved as to Form:

Dennis J. Herrera
City Attorney

I have read and understood paragraph 35, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

By: 

Jana Clark
Deputy City Attorney



Terry Schroeder,
Vice President, Western Region
13369 Valley Blvd.
Fontana, CA 92335

City vendor number: 93907

Appendices

- A: Services to be provided by Contractor
- B: Calculation of Charges
- C: Scope of Services – Armored Car Services
- D: Scope of Deposit Services for Website, Call Center, Kiosks, Lockbox, and Walk-In
- E: Scope of Services, Responsibilities, and Authorizations for Secure Release™ Prepaid Debit Card Release

Appendix A

Services to be provided by Contractor

1. Description of Services

Keefe Commissary Network, LLC. agrees to perform the following services:

The San Francisco Sheriff's Department ("SFSD") will give the Contractor the right to operate exclusive jail commissary services at all open jail sites selling food products, hygiene supplies, and such other items as approved by the SFSD. SFSD will *not* furnish any work or storage space for the "Bag-In" jail commissary operation, nor will the SFSD provide any inmate labor for this function.

The Department currently operates five (5) Jails. Currently, no inmates are housed at Jail No. 6. County Jail No. 1 is an Intake and Release Center and does not use commissary services. Jail No. 3 is the Records facility and does not currently use commissary services. If the inmate population increases and inmates are housed at this facility, facility will use commissary services. The trust account is reconciled at City Hall. SFSD facilities are located at the following addresses:

1. County Jail No. 1 – Intake and Release	425 Seventh St., San Francisco, CA 94103
2. County Jail No. 2	425 Seventh St., San Francisco, CA 94103
3. County Jail No. 3 - Records Only	850 Bryant St., San Francisco, CA 94103
4. County Jail No. 4	850 Bryant St., San Francisco, CA 94103
5. County Jail No. 5	1 Moreland Drive, San Bruno, CA 94066
6. County Jail No. 6 – Closed	1 Moreland Drive, San Bruno, CA 94066
7. Ward 7D/7L	San Francisco General Hospital
8. City Hall	1 Dr. Carlton Goodlett Place, San Francisco, CA 94103

Jail population figures fluctuate from time to time. In 2013, the average daily population (ADP) was 1427. The SFSD does not guarantee a minimum number of inmates in custody at any time.

A. General Guidelines

1. The Contractor's employees and agents will comply with all SFSD rules and regulations concerning conduct on Jail property and contact with inmates. All Contractor employees must successfully complete civilian orientation. All Contractor employees must comply with SFSD rules for locked facilities, including not having cell phones, cigarettes, alcohol or other contraband materials on their person. Contractor employees are required to carry identification card, verifying the individual's employment when on jail premises. All Contractor employees will be subject to a background check and fingerprinting by the SFSD. If the background check indicates a reason the employee is not suitable for admission to the Jails, the Contractor will be notified, and Jail access will be denied. Contractor employees will be required to wear a uniform of a color approved by the SFSD with the Contractor's logo.

All required uniforms will be provided by the Contractor at no charge to the SFSD.

2. The Contractor will take full responsibility of all assigned keys to SFSD facilities. The Contractor will maintain a key usage log and train staff to comply with the proper application of the key to the lock mechanism. Assigned keys will remain property of SFSD and should not be duplicated. Contractor will immediately report missing keys to the SFSD Facility Commander.
3. The Contractor shall provide trained, professional, and experienced employees and supervisory staff. The Contractor shall have identifiable supervisors present during all operating hours. In addition, Contractor must provide a means of contact during non- scheduled business hours so that communication between SFSD jail staff and Contractor may be maintained. Contractor will provide two (2) delivery agents and one (1) manager/supervisor which will be the main point of contact during delivery hours.
4. The Contractor is responsible for the purchase, receipt, and storage of all commissary products offered and supply items necessary for ordering, assembly, preparation, and distribution of goods to meet the needs of the inmate population during the specified contract period. This includes all supplies for computers, monitors, printers and check-writing printers, such as toner cartridges. Contractor shall inspect all food for wholesomeness and shall date all food, unless the product manufacturer has already provided dating and coding of the item. The Contractor shall utilize accepted storage standards to protect products and supplies from theft, spoilage and other damage.
5. The Contractor shall provide a minimum of five percent (5%) of the food offered for purchasing to meet healthy and nutritious standards. These standards are to be agreed upon by both the Contractor and the SFSD within one hundred twenty (120) days of the contract award and will be reviewed periodically during the term of the contract.
6. The Contractor shall maintain an accurate physical inventory of all products and supplies on hand. If requested, Contractor will submit a physical inventory report to the SFSD no later than five (5) business days after the close of the inventory period. The Contractor shall establish and follow a first-in-first-out inventory rotation.
7. The SFSD may, at any time, inspect the Contractor's warehouse storage areas, transportation vehicles, and test products or materials to determine compliance with the specifications contained in the terms of the contract. Warehouse facility location and designated account manager is as follows:

Keefe Commissary Network
Charles Oyas; SFSD Commissary Account Manager,

Santa Clara Warehouse
2065 Martin Ave.
Santa Clara, CA 95050
Phone: (408) 727-1594
Cell: (909) 942-0844
Email: coyas@keefegroup.com

John True; Manager
Keefe Distribution Warehouse
55-101 Vista Blvd.
Sparks, NV 89434
Phone: 800-890-5206
Email: jtrue@keefegroup.com

8. The Contractor shall, within sixty (60) days of contract award, provide to the Chief of Custody and each facility Captain, and maintain during the contract term, a manual describing general operating policies and procedures, quality assurance plan, emergency plans, and general safety guidelines.

B. General Requirements

1. The Contractor will provide a once-a-week Bag-In commissary service for jail inmates at the following locations:
 - a) County Jail No. 2
 - b) County Jail No. 3 (if inmates are housed)
 - c) County Jail No. 4
 - d) County Jail No. 5
 - e) County Jail No. 6 (if inmates are housed)
 - f) Ward 7D&L located at San Francisco General Hospital (if required by SFSD; commissary is currently not delivered to SFGH)
2. Delivery times to each facility will be made at times mutually agreed upon by the Facility Commander and Contractor's local manager.
3. At no time shall Contractor supply Sheriff's Department employees with free product/materials for their personal use.
4. Contractor must respond to all inmate grievances within 5 business days of acceptance by the SFSD.
5. Contractor will sell only those items approved for sale by the SFSD, at prices approved by the SFSD. Contractor will maintain a stable pricing environment. Proposed selling prices should factor in projected inflation rates for one year. All requests for price adjustments are subject to SFSD approval. Contractor may

request price adjustments no more than once per year, and the request must be supported by documentation.

6. Contractor will sell phone time provided by the Inmate Phone Service contractor. The Contractor will work with SFSD's inmate telephone service contractor to provide the ability to order phone time via the PIN system. Inmates with unused balance on their pre-paid phone time will be given phone time credit in their trust account once the inmate phone service has migrated to a PIN system. At the time of release, an inmate with an unused pre-paid phone card balance and/or unused air time will be given a refund. The Contractor will settle the refund credit directly with SFSD inmate phone service provider. This service is provided at no cost to SFSD.

C. Commissary Menu

1. The Contractor will provide the SFSD approved Commissary Menu in English, Spanish, and Cantonese. Contractor will sell only those items approved for sale by SFSD and listed on the Commissary Menu, at prices approved by the SFSD. Contractor will maintain a stable pricing environment. All requests for price adjustments are subject to SFSD approval. Contractor may request price adjustments no more than once per year, and the request must be supported by documentation. Contractor will provide 30 days advance notice to SFSD for any item changes to the Commissary menu. All changes to the Commissary menu must be approved by SFSD.
2. The Contractor will provide a custom inmate package program called Securepak. Securepak will allow friends and family to order packages from a SFSD approved menu via toll-free number, secure website, mail or fax. The Contractor will provide the proprietary software to process orders, enforce SFSD approved menu items, and confirm inmate status and spending limits. The Contractor will provide a Securepak link on the SFSD website. The Contractor shall pay SFSD the percentage commission on net sales of the Securepak provided in Appendix A. Section N.1 Commissions. The Securepak will be comprised of items selected from the Commissary Menu and packaged in a cleared plastic bag. The price for the items available in the Securepak will follow the pricing listed on the SFSD approved Commissary Menu. Contractor will charge a processing fee of \$4.00 to the person placing the Securepak order.
3. Upon execution of the option by SFSD, the Contractor will provide an optional Weekend Kit program that enable trust and transitional inmates to purchase commissary items. The Weekend Kit will be stored and administered by SFSD on consignment. SFSD will act as the Consignee and the Contractor will act as the Consignor. The Contractor will work with SFSD Custody Operations to determine the menu items for the Weekend Kit. The price for the items available in the Weekend Kit will follow the pricing listed on the SFSD approved Commissary Menu. The Contractor shall pay SFSD the percentage

commission on net sales of the Weekend Kit provided in Appendix A. Section N.1 Commission.

D. Commissary Orders

1. The Contractor will supply the necessary SFSD approved pre-printed Scantron order forms on which the inmates place their commissary orders. Pre-printed order forms will be available in English, Spanish, and Cantonese. The Contractor will work with SFSD Custody Operations to confirm the order form collection schedule and cutoff time for inmates to place their commissary orders. Contractor will assume full responsibility for collecting and inputting all order forms. The Contractor must verify that each order form has been signed prior to the order being inputted into the system for fulfillment, and must verify the prisoner's signature upon the inmate's receipt of the commissary delivery. The signatures must match. SFSD will determine if pre-printed Scantron commissary order system will be needed once the phone ordering system is implemented.
2. The Contractor will provide a phone order system as an alternative to the pre-printed Scantron order form, as approved by SFSD. This ordering method will allow the inmates to order commissary via the inmate phone system. The Contractor will work with SFSD's inmate phone service provider to integrate the phone ordering system. The Contractor will assume all related cost for commissary orders placed via the inmate phone system. Inmates trust accounts will not be charged for phone calls to order commissary items or to check account balances. The Contractor will provide on-site training and training manuals to SFSD staff and inmates. In addition, Contractor will provide an instructional DVD that will guide inmates through the steps required to order commissary via the phone and to check their account balance. Contractor will provide and secure laminated Commissary Menus in English, Spanish, and Cantonese at each inmate phone. The Contractor will program phone prompts in English, Spanish, and Cantonese to provide guides during the ordering process. The Contractor will work with SFSD Custody Operations to determine the cutoff time for inmates to place phone orders. The Contractor must verify the prisoner's inmate number and obtain their signature on the roster sheet upon the inmate's receipt of the commissary delivery.
3. Prior to commissary deliveries, Contractor will verify that all commissary orders are within the commissary limit set by SFSD or within the amount available in the inmate's trust account. Other than indigent and medical kits, the Contractor holds financial liability for all commissary orders delivered to account holders with insufficient funds.
4. Contractor will verify that inmate is not on discipline status prior to delivering commissary items and will limit items delivered to inmates on discipline to hygiene and letter writing materials.

5. Contractor will respond in writing to all inmates' grievances documented and submitted on the Inmate Commissary Grievance Form to SFSD Custody Operations. The Contractor will respond within five (5) days of receiving the Inmate Commissary Grievance Form from SFSD.

E. Commissary Delivery

1. The Contractor will deliver commissary orders to each individual inmate, at the location indicated on the inmate's order form, or inmate commissary roster form, approved by SFSD. Delivery schedule will be by mutual agreement with Contractor and the Facility Commander, subject to the operational needs of the SFSD, between the hours of 10:00 AM and 10:00 PM. Delivery of commissary must take place regardless of weather, holidays, work stoppages or any adverse conditions. Contractor may deliver commissary on a holiday schedule with pre-approval of the Facility Commander. The commissary delivery schedule, subject to change per SFSD, will be as follows:
 - a) County Jail #2 located at 425 7th Street, San Francisco, CA 94103 will begin commissary service every Wednesday at 3:30 PM.
 - b) County Jail #4 located at 850 Bryant Street, San Francisco, CA 94103 will begin commissary service every Wednesday at 3:30 PM
 - c) County Jail #5 located at 1 Moreland Dr., San Bruno, CA 94066 will begin commissary delivery every Thursday at 3:30 PM
 - d) Reroutes for undelivered commissary orders will be made to County Jail #2 located at 425 7th Street, San Francisco, CA 94103, County Jail #4 located at 850 Bryant Street, San Francisco CA 94103, and County Jail #5 located at 1 Moreland Dr., San Bruno, CA every Friday. The commissary delivery will begin at 3:30 PM to the Downtown County Jails first then to the San Bruno County Jail facility.
2. The Contractor will ensure their commissary delivery vehicles meet the height limits of eleven (11) feet for the sallyport/loading area located at 425 7th Street, San Francisco, CA 94103 and twelve (12) feet for the sallyport/loading area located at 1 Moreland Dr., San Bruno, CA 94066.
3. The Contractor will deliver commissary to each individual inmate, and verify the inmate's identity number via inmate wristband against the inmate's identity number on the Commissary Roster Order Form. The Contractor may also be required to utilize other mechanisms approved by SFSD to confirm inmates' identity; i.e. visual confirmation of inmate photo displayed on wristband. The Contractor holds financial liability for incorrectly delivered orders.

4. The Contractor will review the sealed commissary bag with the inmate at time of delivery.
5. The Contractor will obtain the inmate's signature on the Commissary Roster Order Form upon inmate's confirmation of their commissary order. Inmates must confirm commissary order prior to returning to their holding area.
6. If a discrepancy is found during the inmate's review and confirmation of their commissary order, the inmate will inform the Contractor and SFSD Custody Operations. Once the discrepancy is confirmed by the delivery agent and SFSD Custody Operations, Contractor will remove the two-part order form from the inmates sealed commissary bag and note the discrepancy and sign the document. The inmate will retain the original receipt. The Contractor will retain a copy of the receipt. The inmate will sign the Commissary Roster Order Form to confirm receipt of their order. Contractor will process a credit to the inmate's trust account within 24 hour of the inmates' signature. Contractor will post credits for all discrepancies; no exceptions. Contractor will confirm and remove incorrect items from the sealed commissary bag. Contractor will process a credit for missing items within 24 hours of discovery that the item was incorrect. Contractor will confirm and document discrepancies prior to the inmates returning to their holding area with their commissary bag.
7. The Contractor will deliver to the SFSD facility commander the original fully certified and signed Commissary Roster Order Form upon completion of delivering commissary orders to each inmate within any jail. The Contractor will note any adjustments made to orders during delivery on the Commissary Roster Order Form.

F. Indigent Accounts

1. Contractor will flag inmate commissary accounts of \$5.00 or less as "Indigent" accounts, and the Contractor will provide indigent kits for distribution to these inmates. Inmates will have the ability to check their account balance over the inmate phone system with a PIN access code. The SFSD reserves sole discretion to raise the indigent threshold amount. The indigent kits will consist of the following items:
 - a) Four (4) sheets of lined paper;
 - b) Two (2) stamped envelopes;
 - c) One (1) "golf" style pencil;
 - d) four (4) pieces of hard candy;
 - e) One (1) toothbrush;
 - f) One (1) small stick-type deodorant;

2. The Contractor will set-up an indigent menu in ITFAMS for inmates with an indigent status to include the selection of two items from the following medications:
 - a) Five (5) packages of Acetaminophen or Ibuprofen (325 mg);
 - b) Two (2) tablets per package antacid tablets (10 tablets);
 - c) Stool softener (10 capsules);
 - d) Hemorrhoid suppositories (12/pk.);
 - e) Athlete's foot cream (0.5 oz.)
3. SFSD shall pay to the Contractor for the additional medications on the Indigent Menu. The indigent medication price list is detailed in Appendix B – Calculation of Charges. Section 2 Indigent Medication. The indigent medication price list provided by the Contractor will not have any price mark-ups and will be invoiced as a straight pass through to SFSD. Indigent kits and indigent medications are not commissionable.
4. Contractor will invoice indigent kits and indigent medications separately and will track the inmates who received indigent kits. SFSD will pay indigent kit invoices within thirty (30) days from receipt of invoice. Upon request, Contractor will compile and electronically distribute to SFSD staff a list of all currently housed inmates who are considered indigent.
5. Contractor will have an additional supply of indigent kits on hand during deliveries to ensure all indigent kits ordered are delivered.
6. The indigent kits and indigent medications can be reviewed and changed every six (6) months as approved by SFSD.

G. Medical Starter Kits

1. The Contractor will supply "Medical Starter Kits" in zip-lock bags to Jail Health Services of the San Francisco Department of Public Health. Each medical starter packet will contain the following items:
 - a) Five (5) packages of Acetaminophen or Ibuprofen as directed by SFSD (325 mg);
 - b) A letter to the patients explaining the policy for "Over the Counter" (OTC) medication;
 - c) A handout: "How to Take Care of Common Medical Problems in Jail"
2. SFSD Jail Mental Health Services will supply the letter and the handout, as detailed above, to the Contractor.

3. Contractor will sell SFSD approved medications individually on the SFSD approved Commissary Menu. Contractor will ensure inmates receive not more than two (2) medications per week.
4. Contractor will deliver Medical Starter Kits on a weekly basis to Jail Health Services, which is responsible for delivery to the inmates.
5. Contractor will invoice all Medical Starter Kits on an invoice separate from commissary sales, and will provide a list of inmates who received Medical Starter Kits. SFSD shall pay Medical Starter Kit invoices within thirty (30) days from receipt of invoice.

H. Payment Withholding

1. SFSD reserves the right to withhold payment for the following reasons:
 - a) Undelivered commissary orders;
 - b) Commissary orders delivered to the wrong inmate;
 - c) Incomplete order/roster forms;
 - d) Completed order/roster forms not returned to the SFSD;
 - e) Unsigned order/roster form(s);
 - f) Reconciliation discrepancies.

I. Account Reconciliation

1. The Contractor will perform the following account reconciliation:
 - a) Review signed delivery documentation to determine undelivered, damaged, and incorrect commissary items
 - b) Document inmate accounts requiring adjustments as delivery exceptions
 - c) Compare signed delivery documentation with delivery exceptions against warehouse fulfillment report to confirm adjustments
 - d) Enter adjustments to inmate accounts
 - e) Balance all sales by 3:00 PM on the next business day following delivery; including application of credits and debits as necessary.

J. Inmate Trust Fund Accounting and Management System (ITFAMS)

1. The Contractor will install and maintain an Inmate Trust Fund Accounting and Management System. Once installed, the ITFAMS will be under the sole operation and control of the SFSD. Contractor will support hardware and software 24 hours a day, 7 days a week. The ITFAMS must meet the following minimum requirements:

- a) The ITFAMS will enable the SFSD to open an account for each inmate at the time of processing in the jail system, and to enter into the system the amount of money in inmate's possession. In addition, the ITFAMS will allow input of a SFSD defined resident ID number for each resident.
- b) Contractor will customize ITFAMS to define a full chart of accounts, create customized accounting transactions, setup recovery percentages, configure receipt and check printing formats, and define comprehensive set of commissary order entry restrictions.
- c) The ITFAMS will allow for adding funds into the inmate's account, with a service fee charge, as defined in Appendix B Calculation of Charges Section 4 Standard Inmate Deposit Fee Structure Table, to person making the deposit, through the following options:
 - 1. 24/7 toll-free phone number;
 - 2. Secured Online website;
 - 3. Lobby kiosks at (1) 425 7th Street, San Francisco, CA 94103, (2) 850 Bryant Street, San Francisco, CA 94103 and (3) 1 Moreland Dr., San Bruno, CA 94066 that will accept deposits via cash or credit/debit cards;
 - 4. Money Orders received via mail;
 - 5. Booking Kiosks at time of intake;
 - 6. Walk-In retail payment;
 - 7. Lock Box Service (optional).
- d) The ITFAMS must allow for drawing funds out of the account in the form of a check made payable to a third party; inputting debits and credits for purchases from the commissary showing transaction dates and order numbers; closing an inmate account, individually or by batch, with a detailed statement showing the total fund additions; debits and credits for commissary purchases; total draws and net balance due to inmate; paying the balance due by cash, check, money order, debit card or combination of all. ITFAMS must allow users to add their own "transaction types" at the site level. Each transaction entered will create and print a receipt, and is tracked in all reports for accounting purposes, according to Generally Accepted Accounting Principles (GAAP). Contractor will record documented and confirmed credit back to the inmate account and be readily accessible to them within fifteen (15) minutes of input. Contractor will provide services of accepting and transferring funds as defined in Appendix D Scope of Deposit Services for Website, Call Center, Kiosks, Lockbox, and Walk-In.

- e) The ITFAMS will support drawing funds from an account by issuing checks via check printer. The Contractor will provide to SFSD facilities the current industry standard open-source hardware to produce the following check printing options: standard pre-printed checks, MICR checks, or tractor fed carbon-copy checks, as determined by SFSD. The Contractor will provide all the software, hardware, and media needed to provide this service at no cost to SFSD.
- f) The ITFAMS will interface with SFSD's Jail Management System (JMS) to automatically receive new booking data, housing locations and release data. The ITFAMS will enable SFSD to check inmate trust account balances in JMS. Interfaces may be either file based or real-time. Real-time interfaces range from SOAP/XML, to embedded SQL DLL, to local stored procedures, to direct table-based triggering of data exchanges.
- g) The ITFAMS will provide an electronic refund feature on the commissary module and a manual (completing return forms via fax) solution for handling the return of commissary orders. The entire order may also be credited at this point in the event that the inmate left the facility prior to delivery of the order. Contractor's employees at the facility will process all returns after completing account reconciliation per Appendix A, Section I.1, Account Reconciliation.
- h) The interface, as detailed above, requires the Contractor to provide for a secure data connection to the location of the JMS server, which may necessitate the purchase of a firewall device at the Contractor's expense.
- i) The Contractor will integrate ITFAMS with the City's bank provider to provide confirmation of check validity when it is deposited or cashed. The exporting and uploading of data to the Bank of America Positive Pay check verification system must be automated. SFSD will determine if this preferred component is required if the pre-paid debit card system is approved by SFSD and implemented by the Contractor.
- j) The Contractor ITFAMS will provide an option to issue debit cards in lieu of cash or checks upon inmate release; the Scope of Services for Secure Release™ Prepaid Debit Card Release is defined in Appendix E. The SFSD can load the card with minimum of \$0.01 or to a maximum of \$9,700. The debit card will carry the MasterCard or VISA logo and can be used worldwide. The debit card will be immediately activated at the time the funds are loaded on to the card, and a PIN code will be provided to the cardholder. In addition, the debit card will be accepted in the Money Pass national surcharge free network. The cardholder will have access to cash via an ATM without incurring additional surcharge fees, within 72 hours of receiving the debit card. After 3 days/ 72 hours of issuance, a card with an existing balance starts incurring weekly maintenance fees of \$1.50 to

cover the cost of the FDIC insured account. Every 90 days of no debit card activity an Inactivity Fee of \$2.00 is accessed.

1. The Contractor will provide all the training, software, hardware, and card media needed to provide this service at no cost to SFSD;
 2. The Contractor will provide debit card instructional brochures to SFSD that detail debit card usage, benefits, and associated card fees;
 3. SFSD will include the debit card instructional brochure with each debit card issued;
 4. All debit card related funds will be on deposit at an FDIC insured bank.
- k) The ITFAMS will use the SFSD's Master File ID Number as the inmate's account number, and will prevent the entry of duplicate Master File ID numbers. The system must allow searches for active or inactive accounts based on (1) inmate name, (2) Master File ID Number, (3) inmate accounts with open or closed balances.
- l) The ITFAMS will provide a minimum of six (6) levels of security to allow the system administrator to limit access as needed. The ITFAMS will design and enforce virtually infinite levels of security at the group, individual, and workstation levels. Additionally, the authorizing User ID, workstation number, and time stamp (to the millisecond) will be permanently recorded on each financial transaction to enable audit-ability and accountability at the record level. Logins will include user-defined roles such as administrator, accountant, public user, inmate, etc. The ITFAMS will be protected by password security both at the feature level and at the individual accounting transaction level. The logon display will be presented at various points to validate the User ID and password.
- m) The ITFAMS will provide a series of reports, including but not limited to:
1. Detailed daily and weekly cash transactions;
 2. Cash fund reconciliation;
 3. Account reconciliation by inmate;
 4. General ledgers;
 5. Balance sheets;
 6. Account history and balances;
 7. Accounts abandoned for more than one year;
 8. Post-Release Debit Card Activity Report;

9. Inactivity Report that provide checks/debit cards that have not been cashed for more than one year;
 10. And other reports as requested by the SFSD
-
- n) The ITFAMS will provide three (3) levels of reporting including native workflow reporting within the application: ODBC access to a variety of off-the-shelf reporting products including Microsoft Access and Excel, KCN report viewer, reporting provided by KCN with KCN-supplied custom Crystal Reports.
 - o) Contractor will make available reports and programs to provide tracking and closing of accounts abandoned for more than one year, and to reclaim checks that have not been cashed for more than three years. Contractor will provide access to all inactive accounting reports and reclaimed checks. Contractor will construct new reports as requested by the SFSD based on accumulated data.
 - p) The system will accept data input from a variety of sources such as keyboard, bar code scanner, light wand, mouse, etc.
 - q) The data file structure will be in a format that will facilitate the two way transfer of data elements, from one platform or software architecture to another, such as xBase, Oracle, SQL Server, Windows NT operating system or DB2.

K. Hardware

1. The Contractor will provide system hardware that meets industry standard Intel based central processor of sufficient power, sufficient random access memory, and redundant fixed disk capacity to allow concurrent multiple transaction processing.
2. The Contractor will provide automatic back up of data file on the local database server on a daily basis at no cost to the SFSD.
3. The Contractor will provide backup server service which includes the storage of a 'cold spare' server CPU at the Regional Distribution Center or the Central Technical Services data center. In the event of a server failure at the SFSD facility, the cold spare could be installed and the database restored in a matter of hours by Contractor's staff.
4. Contractor will provide uninterruptible power supplies to allow an orderly shutdown of the workstation within 5 minutes of a power loss at no cost to the SFSD.
5. Contractor will provide all required cabling at no cost to the SFSD.

6. Contractor will provide all required accessories for inputting data, including bar code scanners or wands at no cost to the SFSD.
7. Contractor will provide remote workstations located at each jail facility that will be linked to the central system via an Ethernet LAN/WAN or other broadband communications line, at no cost to SFSD.
8. Contractor will install workstations that meet industry standard at the following locations:
 - a) County Jail No. 1
 - b) County Jail No. 2
 - c) County Jail No. 3 (if housing inmates)
 - d) County Jail No. 4
 - e) County Jail No. 5
 - f) County Jail No. 6 (if housing inmates)
 - g) Custody Administration Office at County Jail No. 2
 - h) SFSD Investigative Services (25 Van Ness, Room 350)
 - i) SFSD Criminal Investigation Unit (425 7th St.)
 - j) City Hall (Room 456)
 - k) San Francisco General Hospital
9. Contractor will provide industry standard open source receipt printer and report printer for all workstations at no cost to the SFSD. The workstation located at the Intake and Release Center will also require a check printer.
10. Contractor will provide one (1) lobby kiosk at 425 7th Street, San Francisco, CA 94103, one (1) lobby kiosk at 850 Bryant St., San Francisco, CA 94103 and one (1) lobby kiosk at 1 Moreland Dr., San Bruno, CA 94066 that will accept deposits via cash or credit/debit cards as defined in Appendix C., Scope of Services – Armored Car Service.
 - a) Contractor will provide and install kiosk hardware and software at no cost to SFSD;
 - b) The Contractor will provide DSL data line and firewall devices for each kiosk installed at no cost to the SFSD;
 - c) The Contractor will service and repair kiosk malfunctions within 24 hours of receiving notification from SFSD;
 - d) The Contractor will immediately credit all deposits made at the lobby kiosks to the inmate account and SFSD approved Inmate Welfare Fund bank account and will assume all liability of the funds deposited;

- e) The Contractor will assume all cost and responsibility related to armored courier service to collect funds from the lobby kiosks;
 - f) The Contractor will work with SFSD to approve courier service and to coordinate collection schedule.
11. Contractor will provide TFT active matrix flat panel color displays of at least a 15" diagonal measurement with each workstation installed at no cost to the SFSD.
12. Contractor will provide a Booking Kiosk to process intakes at County Jail #1 located at 425 7th St., San Francisco, CA 94103. The Booking Kiosk will connect to the CPU with a USB connection. The software application, included with the Booking Kiosk, will reconcile at shift change all denominations of currency and coin processed in the Kiosk against credits to the inmate trust accounts. SFSD will perform a manual deposit of the currency and coin from the Booking Kiosk. The Contractor will provide all hardware, software, and training required to implement the Booking Kiosk at no cost to SFSD.
13. Contractor will provide all the read/write hardware, software, and card media required for the implementation of the pre-paid debit card inmate release program at no cost to SFSD.

L. System Installation, Maintenance and Support

1. Contractor will install ITFAMS and provide a pre-planning session with SFSD staff to establish financial profiles and restrictions prior to general SFSD staff training.
2. Contractor will provide at least 4 hours of on-site training to SFSD staff primarily responsible for the following tasks:
 - a) Intake and release, initial deposits;
 - b) Initial charges;
 - c) Cash, check and debit card withdrawals at closeout;
 - d) Cash drawer balancing;
 - e) Commissary order entry;
 - f) Verify inmate trust account balance;
 - g) Restrictions management;
 - h) Refunds.Multiple training sessions may be required. Each training session will not exceed six (6) staff members.
3. Contractor will provide at least one (1) full day of on-site training to SFSD staff primarily responsible for the following tasks:

- a) Fiscal management
- b) Reconciling cash drawers;
- c) Bank deposits;
- d) General Journal entries;
- e) Fiscal reporting;
- f) Inmate Control Account;
- g) Bank Reconciliation;
- h) Collected Recoverable distributions;
- i) Payments to vendors;
- j) Inmate Welfare Fund.

Multiple training sessions may be required. Each training session is not to exceed six (6) staff.

- 4. The Contractor will provide customized procedure guides from the training sessions. The Contractor will also provide an on-line visual reference guide, which explains the steps required to operate ITFAMS modules such as scanning, adjusting orders, setting up restrictions, reviewing rejections based upon restriction violations, dispatching orders via modem, and refunding orders.
- 5. The Contractor will place source code for the software owned by the Contractor in escrow for the duration of the contract.
- 6. During the term of the contract (including extended one year options and month-to-month periods), Contractor will install software upgrades to all hardware needed to support the ITFAMS as soon as the upgrades become available, and at no cost to the SFSD. This requirement includes ITFAMS software upgrades, operating system upgrades, and any necessary firmware upgrades.
- 7. The Contractor will insure that hardware and software utilized by the ITFAMS will be supported through a 24/7/365 toll-free assistance line staffed by Contractor's Technical Services support center. Phone requests are routed through CISCO Call Manager on 24/7/365 basis. Phone services are available during business hours, defined as 8 AM – 5 PM Monday through Friday. Any inbound call outside of business hours can access technical support via a touch-tone phone. E-mail requests are monitor during business hours by a designated Service Center administrator. The Solutions Center administrator screens e-mail either for immediate response or for escalation as a service event. All customer support cases are documented in Microsoft CRM.
- 8. Contractor's technical personnel will respond to on-site requests to bring ITFAMS to full operation no more than three (3) hours after SFSD notification.
- 9. Contractor's support technicians responsible for the deposit and booking kiosks will respond to on-site requests to bring equipment to full operation no more than three (3) hours after SFSD notification.

10. The Contractor will not charge a licensing fee for providing debit phone cards or air time as part of the commissary.
11. The Contractor will provide the training, documentation, and technical support detailed above at no cost to SFSD.

M. Transition

1. The Contractor is required to submit an operational plan for the implementation of the tasks described in Appendix A, Services to be provided by Contractor, within thirty (30) days of receiving contract award.
2. Upon mutual agreement of the format and the startup date of the new ITFAMS, the SFSD, the incumbent Contractor and the new Contractor will be responsible for transferring all data from the existing commissary system to the new system.

N. Commission

1. The Contractor will pay to SFSD a commission of 43.0% based on net commissary sales; as defined in Section 5.c Compensation. Commissary commissions will be paid to the Department's Inmate Welfare Fund. The Contractor agrees to pay SFSD a minimum annual guaranteed (MAG) income of \$590,000. The following items will be excluded from the commission calculation:
 - a) Indigent kits;
 - b) Indigent medications (medication from the Indigent Menu);
 - c) Medical Starter Kits;
 - d) Inmate Phone Cards and/or Phone Air Time;
 - e) Postage.
2. Contractor will generate invoices the day after orders files are submitted to the Contractor. The Contractor will invoice net commissary sales to SFSD following the reconciliation of the commissary delivery. The commissary sales invoice will detail, by category name, net sales, sales tax, gross sales and commission earned by SFSD. The Contractor will provide a financial report that details the net sales by commissionable and non-commissionable items that reconcile to the SFSD invoiced amount. SFSD will pay the Contractor, from the Inmate Trust Account, the gross sales invoiced within 30 days of receiving invoice.
3. Contractor will pay commissary commissions to the San Francisco Sheriff's Department's Inmate Welfare Fund within twenty (20) days of the close of each accounting month. The Inmate Welfare Fund will pay for Indigent Kits, Medication purchased from Indigent Menu, and Medical Starter Kits invoiced

by Contractor to SFSD. The Contractor will provide itemized documentation which supports the invoiced amount.

2. Reports

Contractor shall submit written reports as requested by the Sheriff's Department. Format for the content of such reports shall be determined by the Sheriff's Department. The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

3. Department Liaison

In performing the services provided for in this Agreement, Contractor's liaison with the Sheriff's Department will be Lt. John Ramirez, Custody Operations and Henry Gong, Contract Administrator.

Appendix B Calculation of Charges

As note in Appendix A, the Contractor will pay to SFSD a commission of 43.0% based on net commissary sales; as defined in Section 5.c Compensation. Commissary commissions will be paid to the Department's Inmate Welfare Fund. The Contractor agrees to pay SFSD a minimum annual guaranteed (MAG) income of \$590,000. The following items will be excluded from the commission calculation:

- a) Indigent kits;
- b) Indigent medications (medication from the Indigent Menu);
- c) Medical Starter Kits;
- d) Inmate Phone Cards and/or Phone Air Time;
- e) Postage.

1) Indigent Kits

SFSD shall pay to the Contractor **\$1.60** per Indigent Kit delivered to the inmate. Indigent Kit will consist of the following:

- a) Four (4) lined sheets of paper
- b) Two (2) stamped envelopes
- c) One (1) "golf" type pencil
- d) Four (4) pieces of hard candy
- e) One (1) toothbrush
- f) One (1) small stick-type deodorant

2) Indigent Medication

The Department shall pay to the Contractor for the following additional medications purchased from the Indigent Menu:

- | | |
|---|------------------|
| a) Surcharge | \$0.00 per order |
| b) Acetaminophen (5 packages; 325 mg) | \$0.03 per pack |
| c) Antacid Tablets (2 tablets per pack) | \$0.04 per pack |
| d) Stool Softener (10 Capsules) | \$2.79 per pack |
| e) Hemorrhoid Suppositories (12 per pack) | \$1.85 per pack |
| f) Athlete's Foot Cream (0.5oz tube) | \$0.54 per tube |

3) Medical Starter Kit

The Department shall pay to the Contractor \$0.25 per Medical Starter Kit. A Medical Starter Kit will consist of the following:

- a) Five (5) packages of Acetaminophen or Ibuprofen (325 mg) as directed by SFSD;
- b) A letter to the patients explaining the policy for “over the Counter” (OTC) medication;
- c) A handout: “How to Take Care of Common Medical Problems in Jail”

*The OTC letter and handout will be supplied to Contractor by Jail Health Services.

All other revenue to the Contractor for performance of the services described in this contract shall be paid by inmate purchases of commissary items.

4) Standard Inmate Deposit Fee Structure

Standard fees paid by family and friends making a deposit to an inmate trust account. The Contractor will collect and retain the inmate deposit fees.

STANDARD FEE STRUCTURE				
Gross Amount Deposited	Web	Phone	Credit at Lobby	Cash at Lobby
\$0.01 - \$19.99	\$2.95	\$3.95	\$2.95	\$2.00
\$20.00 - \$99.99	\$5.95	\$6.95	\$5.95	\$2.00
\$100.00 - \$199.99	\$7.95	\$8.95	\$7.95	\$2.00
\$200.00 - \$300.00	\$9.95	\$10.95	\$9.95	\$2.00

Appendix C

Scope of Services – Armored Car Services

This scope of services outlines the responsibilities of both Keefe Commissary Network (KCN) and SFSD (Client) with regard to deposit services. Due to the complexity of accepting/transferring funds, we have described this service in greater detail below.

1. **Payment Methods.** KCN shall support the following “Payment Methods” for facilitating deposits into Inmate Accounts:
 - a. ***Online Website.*** Described as, any public or personal computer user shall have the ability to visit a website to make deposits using any card carrying the MasterCard or Visa logo.
 - b. ***Call Center.*** Described as, any personal or public phone user shall have the ability to call a toll-free number to make deposits using any card carrying the MasterCard or Visa logo.
 - c. ***Facility-Based Kiosk.*** Described as, users may use a payment processing machine installed in a public area of the facility to make deposits using cash or any card carrying the MasterCard or Visa logo.
2. **Responsibilities of KCN.**
 - a. KCN shall receive payments from the public, directed to inmates of Client via the KCN electronic payment service
 - b. KCN will transfer payment files to Client on a daily basis. KCN will deliver payments to Client by the second business day following (but not including) the day of the transaction by means of an Electronic Funds Transfer (“EFT”) to Client’s designated bank account.
 - c. KCN shall provide Client with daily payment information via the KCN Client interface.
 - d. KCN shall be responsible for responding to and resolving inquiries and complaints from senders of funds arising out of KCN’s failure to timely transmit any payment to Client.
 - e. KCN shall provide sufficient promotional material to be posted in each housing and public area of Client.
3. **Responsibilities of the Client.**
 - a. Client will provide KCN with the required bank account information for transmission of an Electronic Funds Transfer (“EFT”). Client agrees to notify KCN, in writing, giving fourteen (14) days notice, of any changes to the bank account information. The address for this notifications is as follows:

Keefe Commissary Network, LLC.
Attn: Controller
10880 Lin Page Place
St. Louis, Missouri 63132
Email: chunter@keefegroup.com
 - b. Client will, upon receipt of written/documented proof of overpayment, promptly refund any overpayment made by KCN, for any reason. This is to include duplicate payments, payments refunded to Customers by KCN and any incorrect payments. At KCN’s option and in lieu of foregoing, KCN may offset any such overpayments from future payment amounts transmitted by KCN to Client and notify Client of any such offset.
 - c. Client will not accept deposits designated for inmate trust fund accounts from depositors at the Client’s facility upon implementation of this service. Client will close any window used for deposit collection within 60 days of kiosk implementation.
 - d. Client will promptly report receipt of each payment to the designated inmate in accordance with Client policy.
 - e. Client will be responsible for resolving any inquiries or complaints arising from Client’s failure to promptly and properly credit the inmate’s account.
4. **Fees and Charges.** KCN shall apply “Service Fees” to all deposits in accordance with the fee structure located in Appendix B.4. All fees shall be assessed to the depositor.
5. **Kiosk Equipment.** Upon expiration or termination of these services, Client agrees that all equipment and materials remain the property of KCN.

6. **Confidentiality.** KCN agrees to keep all information about inmates confidential and to make no disclosure thereof to any third party, except as may otherwise be required by law. KCN agrees to give Client prompt Notice of any such disclosure
7. **Compliance.** KCN and the Client shall comply with all laws, orders, rules and regulations applicable to it that are associated with the performance of its duties and obligations.
8. **Fraudulent Deposits.** KCN reserves the right to refuse deposits for inmates who have received deposits with credit/debit cards used without permission or from credit/debit cards reported as stolen.
9. **Insufficient Usage.** Mutual agreement between both KCN and Client is required to remove or relocate any kiosk that, has been, or may become, the subject of insufficient usage. KCN shall notify the client in writing at least thirty (30) days prior to the removal or relocation of a kiosk.

Appendix D

Scope of Deposit Services for Website, Call Center, Kiosks, Lockbox, and Walk-In.

This scope of services outlines the responsibilities of both Keefe Commissary Network (KCN) and SFSD (Client) with regard to deposit services. Due to the complexity of accepting/transferring funds, we have described this service in greater detail below.

1. **Payment Methods.** KCN shall support the following "Payment Methods" for facilitating deposits into Inmate Accounts:
 - a. ***Online Website.*** Described as, any public or personal computer user shall have the ability to visit a website to make deposits using any card carrying the MasterCard or Visa logo.
 - b. ***Call Center.*** Described as, any personal or public phone user shall have the ability to call a toll-free number to make deposits using any card carrying the MasterCard or Visa logo.
 - c. ***Facility-Based Kiosk.*** Described as, users may use a payment processing machine installed in a public area of the facility to make deposits using cash or any card carrying the MasterCard or Visa logo.
 - d. ***Lockbox.*** Described as, any user shall have the ability to mail in money orders to make deposits.
 - e. ***Walk-In Cash.*** Described as, users may use a partner walk-in retail payment location to make deposits using cash.
2. **Responsibilities of KCN.**
 - a. KCN shall receive payments from the public, directed to inmates of Client via the KCN electronic payment service
 - b. KCN will transfer payment files to Client on a daily basis. KCN will deliver payments to Client by the second business day following (but not including) the day of the transaction by means of an Electronic Funds Transfer ("EFT") to Client's designated bank account.
 - c. KCN shall provide Client with daily payment information via the KCN Client interface.
 - d. KCN shall be responsible for responding to and resolving inquiries and complaints from senders of funds arising out of KCN's failure to timely transmit any payment to Client.
 - e. KCN shall provide sufficient promotional material to be posted in each housing and public area of Client.
3. **Responsibilities of the Client.**
 - a. Client will provide KCN with the required bank account information for transmission of an Electronic Funds Transfer ("EFT"). Client agrees to notify KCN, in writing, giving fourteen (14) days notice, of any changes to the bank account information. The address for this notifications is as follows:

Keefe Commissary Network, LLC.
Attn: Controller
10880 Lin Page Place
St. Louis, Missouri 63132
Email: chunter@keefegroup.com
 - b. Client will, upon receipt of written/documented proof of overpayment, promptly refund any overpayment made by KCN, for any reason. This is to include duplicate payments, payments refunded to Customers by KCN and any incorrect payments. At KCN's option and in lieu of foregoing, KCN may offset any such overpayments from future payment amounts transmitted by KCN to Client and notify Client of any such offset.
 - c. Client will not accept deposits designated for inmate trust fund accounts from depositors at the Client's facility upon implementation of this service. Client will close any window used for deposit collection within 60 days of kiosk implementation.
 - d. Client will promptly report receipt of each payment to the designated inmate in accordance with Client policy.
 - e. Client will be responsible for resolving any inquiries or complaints arising from Client's failure to promptly and properly credit the inmate's account.
4. **Fees and Charges.** KCN shall apply "Service Fees" to all deposits in accordance with the fee structure located in Appendix B.4. All fees shall be assessed to the depositor.

5. **Kiosk Equipment.** Upon expiration or termination of these services, Client agrees that all equipment and materials remain the property of KCN.
6. **Confidentiality.** KCN agrees to keep all information about inmates confidential and to make no disclosure thereof to any third party, except as may otherwise be required by law. KCN agrees to give Client prompt Notice of any such disclosure.
7. **Compliance.** KCN and the Client shall comply with all laws, orders, rules and regulations applicable to it that are associated with the performance of its duties and obligations.
8. **Fraudulent Deposits.** KCN reserves the right to refuse deposits for inmates who have received deposits with credit/debit cards used without permission or from credit/debit cards reported as stolen.
9. **Insufficient Usage.** KCN reserves the right to remove or relocate any kiosk that, in KCN's reasonable discretion, has been, or may become, the subject of insufficient usage. KCN shall notify the client in writing of its intention to remove or relocate a kiosk at least thirty (30) days prior to such action.

Appendix E
Scope of Services, Responsibilities and Authorizations for Secure Release™ Prepaid Debit Card Release

1. **Services.** KCN shall provide technical support and coordination for the following release Services for processing inmate trust fund balances to Client inmates at time of release from the Client:

Prepaid Debit Cards ("Cards"): described as, a debit card which may be used for ATM withdrawals and/or pin-based and signature purchases after inmate activation. The Cards will be issued by and the funds will be held by Cache Valley Bank in Logan, Utah. All transactions are processed by a third-party processor - Rapid Financial Solutions.

. No Release Services shall be implemented without Client approval. Another Card Brand, Issuing Bank or Program Manager may be substituted during the term of this agreement at KCN's discretion and shall not constitute an "Additional Release Service." The Client will be notified in writing of any such change.

2. **Maintenance of Designated Account.** Client agrees to maintain an account at the following bank ("Designated Account") from which funds will be withdrawn by KCN and sent to Cache Valley Bank, which issues the Cards:
Bank Name: Bank of America
Bank _____
Address: _____
Routing _____
Number: 121000358
Account Number: 14997-07920
Bank Contact Name and Title: Eric Gatchalian; CCSF Treasury Accounting & Banking Services
Bank Contact Phone Number: (415) 554-5205

3. **Authorization to Withdraw Funds from Designated Account.** Client hereby authorizes KCN to withdraw funds from the Designated Account without signature or notice to effect all deductions and other transactions due KCN provided for in this Agreement. KCN shall notify Client if at any time there are insufficient funds in the Designated Account to cover any amount that is due and owing to KCN. Client shall promptly pay such amount to KCN. KCN will withdraw funds from the Designated Account every business day to cover the funds necessary to issue the Cards.

This authorization is to remain in full force and effect until KCN has received written notification from Client of its termination in such time and in such manner as to afford KCN and the Bank named above reasonable opportunity to act on it. Client shall give KCN no less than three banking business days notice if the Designated Account is to be changed so as to allow enough time for KCN to make the necessary system modifications.

4. **Responsibilities of the Client.** All responsibilities of the Client regarding security requirements for storage of Secure Release™ Prepaid Debit Card are outlined in the attached "Security Requirements for the Storage of Prepaid Cards", "Exhibit A" of this Agreement

5. **Fees and Charges.** KCN shall charge a fee for its role in setting up the bank account with the bank issuing the Cards and for coordinating third party processing services. "Coordination Fees" are in accordance with the fee structure located in "Exhibit C". All fees shall be assessed to the card holder/inmate. ***Taxes should not be levied on the issuance of a Card unless Client's laws dictate such.**
6. **Equipment.** Upon expiration or termination of this Agreement, Client agrees that all equipment and materials remain the property of KCN and upon expiration or termination of this Agreement KCN agrees to promptly remove all equipment and materials from the above mentioned Client. Client shall be responsible for any unusual wear and tear, lost or stolen equipment as well as any lost, stolen or improperly funded Cards during the term of this Agreement as per "Exhibit A" of this Agreement.
7. **Confidentiality.** KCN agrees to keep all information about inmates confidential and to make no disclosure thereof to any third party, except as may otherwise be required by law. KCN agrees to give Client prompt notice of any such disclosure.
8. **Exclusivity.** Client acknowledges that based on this Agreement, KCN has the sole and exclusive right and authority to provide the services contemplated by this Agreement for all inmate accounts under the Client's control and Client shall not, throughout the term of the Agreement, engage the services of any other company to provide such services.
9. **Compliance.** KCN and the Client shall comply with all laws, orders, rules and regulations applicable to it that are associated with the performance of its duties and obligations under this Agreement and as stated in "Exhibit A and Exhibit B" of this Agreement.

Exhibit A

Security Requirements for the Storage of Prepaid Cards

The security requirements in this document are based on policies and guidelines developed by the Payment Networks and industry best practices. These requirements must be implemented at all locations that store and distribute instant-issue card products.

Card Ordering

Card orders will be shipped to the designated locations by Rapid or its assignees by bonded and approved carrier. Card orders must be signed for upon arrival. All cards must be placed at the time of receipt into inventory in a secured storage area. An employee designated by management should be appointed to ensure the physical and procedural security policies are implemented.

Card Inventory

Physical security of the cards in inventory must be maintained at all times. Cards must be stored in a controlled environment, such as a safe or locked storage device, with access limited to employees who have successfully passed background screening checks.

An inventory log must account for the number of cards received, cards used, cards spoiled (cards that cannot be used due to damage, tampering or expiration) and remaining cards that should balance to the number of cards on hand at any time. An explanation of spoilage should be included on the log. Any inventory discrepancy must be reported to Rapid as soon as detected.

Card Destruction

Rapid may request return of unused cards in inventory for destruction for any of the reasons listed below.

1. Cards are compromised or tampered with;
2. Card stock expired;
3. Cards are damaged or defective;
4. Program is terminated.

Cards to be returned should be securely packaged. A copy of the inventory log should be included in the shipment. A second copy of the inventory log should be transmitted to Rapid electronically.

Alternatively, the location may destroy any defective or damaged card and certify its destruction by maintaining a detailed inventory log, and destroying the cards using a cross cut shredder that creates pieces no larger than ¼" by ½" in size. A certified report of destruction outlined in Exhibit B, attached hereto and incorporated herein by this reference must be submitted to Rapid on a monthly cycle even if no cards were destroyed in that period.

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Exhibit C

Inmate Release Card Program Fees

Cardholder Fees Associated with the Inmate Release Program

	Charge
Card Activation Fee	FREE
Support Calls Fee	FREE
PIN Change Fee	FREE
Point of Sale (POS) Transactions (PIN & Signature)	FREE
Cash Back Option with POS purchase	FREE
Point of Sale (POS) - Declines	FREE
Card to Bank ACH Transfer****	FREE
Cash Out at any Principal MasterCard Member Institution	FREE
Weekly Maintenance Fee*	\$1.50
ATM Account Inquiry Fee	\$1.50
Inactivity Fee**	\$2.00
Domestic ATM Fees***	\$2.75
ATM Decline for Non-Sufficient Funds Fee	\$2.75
International ATM Fees***	\$3.75
ATM Decline International Fee	\$3.75
Replacement of lost or stolen card	\$10.00
Account Closure Fee/Request for Balance by Check	\$25.00

For further explanation of fees or to see Frequently Asked Questions (FAQs), please visit www.accessfreedomcard.com or call the customer support number provided on the back of each card.

* After 3 days / 72 hours of issuance the card starts incurring weekly maintenance fees to cover the cost of the FDIC insured account.

**After 90 days of no activity.

***Fees may also be imposed by the local ATM provider in addition to card fees. For a listing of surcharge-free ATM's, visit <http://www.moneypass.com/>.

****Returned or rejected ACH transfers for invalid banking information are subject to a \$25.00 returned processing fee.

Customer Service / Servicio Al Clients:
Toll Free from U.S.A. – (877) 592-1118