



**COUNTY CLERK**  
GOVERNMENT CENTER BUILDING  
201 WEST FRONT STREET  
MEDIA, PENNSYLVANIA 19063

Phone: (610) 891-4260

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COUNTY CLERK

March 13, 2012

Via E-mail

Mr. Paul Wright  
Prison Legal News  
P.O. Box 2420  
West Brattleboro, VT 05303

Dear Mr. Wright:

This letter acknowledges receipt of your company's check #1110 in the amount of \$12.25. Attached please find the document you requested.

Thank you for writing to the Delaware County Office of Open Records.

Sincerely,

Anne M. Coogan  
Open Records Officer  
County of Delaware  
201 W. Front Street  
Media, PA 19063

**PROFESSIONAL SERVICES CONTRACT  
BETWEEN  
COMMUNITY EDUCATION CENTERS, INC.  
AND  
THE DELAWARE COUNTY BOARD OF PRISON INSPECTORS**

WHEREAS, Community Education Centers, Inc. ("CEC"), located at 35 Fairfield Place, West Caldwell, New Jersey 07006, a duly organized corporation of the State of Delaware, and the Delaware County Board of Prison Inspectors (the "BOARD"), collectively referred to as the "Parties", wish to enter into an Agreement for Professional Services (the "Agreement") commencing at midnight on December 31, 2009; and

WHEREAS, the Board possesses the right and power to manage and operate prisons in Delaware County, Pennsylvania; and

WHEREAS, the Board does manage, regulate, control and operate the existing George W. Hill Correctional Facility in Delaware County, Pennsylvania (the "Prison"); and

WHEREAS, the Board has determined to contract out certain services for the Prison, subject to the control, supervision and participation of the Board as more fully set forth in this Agreement; and

WHEREAS, Provider has agreed to furnish the Functional Services to the Prison in accordance with this Agreement.

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants contained in this Agreement, and subject to the conditions set forth in this Agreement, the Parties, intending to be legally bound, agree as follows:

**ARTICLE ONE - DEFINITIONS**

1.1 **Definitions.** For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise required the following terms are defined as follows:

"ACA" means American Correctional Association.

"ACA Accreditation" means certification by the ACA that the Prison meets ACA Standards.

"ACA Standards" means the policies, procedures and standards of the ACA set

forth in the most recent applicable edition of the ACA's Standards for Adult Correctional Institutions and Standards for Adult Local Detention Facilities.

"Agreement Year" means the period commencing on 12:01 am, January 1, 2010 and ending at midnight on December 31, 2012, and each consecutive twelve-month period thereafter during the term of this Agreement.

"Assistant Superintendent" means a person appointed by the Board to assist the Superintendent in the performance of the Superintendent's duties and to perform such duties as may be assigned to him or her by the Superintendent and/or the Board from time to time.

"Consent Decree re: Inmate Visitation Rights" means the Amended Consent Decree entered in the case of McGoff, et al. V. Rapone, et al., United States District Court for the Eastern District of Pennsylvania, Civil Action No. 74-1229, relating to inmate visitation rights, a copy of which has been given to Provider.

"County" or "Delaware County" means the County of Delaware, Pennsylvania.

"Facility Administrator" means the highest ranking employee of Provider at the Prison designated by Provider as its senior executive at the Prison and given the title of Facility Administrator. The Board shall have the right to interview the proposed Facility Administrator prior to the assignment by Provider of such person to serve as Facility Administrator and the Board shall have the right to direct his or her removal as Facility Administrator.

"Functional Services" means the professional services to be provided by Provider at the Prison as set forth in Article Four and the Service Plan.

"Inmate" means all persons incarcerated at the Prison, including convicted pre-sentence offenders, sentenced offenders, pre-trial detainees and work release prisoners.

"Monthly Service Fee" means the monthly fee payable by the Board to Provider as set forth in Exhibit "D" in consideration of performing Functional Services.

"Office of the Superintendent" means the Superintendent, the Assistant Superintendents and such other persons as may be appointed by the Board or the Superintendent, with the Board's approval, to perform certain assigned duties on behalf of the Board.

"Per Diem Rate" means the set amount payable by the Board to Provider as set forth in Exhibit "D" in consideration of housing Inmates over the population of 1,883.

"Prison" means the George W. Hill Correctional Facility in Delaware County, Pennsylvania.

"Service Plan" means the policies and procedures to be followed by Provider in providing Functional Services as the same may be amended from time to time by Provider, with the consent of the Board. The Service Plan is attached to this Agreement as Exhibit "A".

"Service Commencement Date" means January 1, 2010.

"Settlement Agreement Re: HIV Matters" means the settlement agreement entered in the case of Starkey et al. v. Matty et al., United States District Court for the Eastern District of Pennsylvania, Civil Action No. 89-9011, relating to the housing and medical care of Human Immunodeficiency Virus residents, a copy of which has been given to the Provider.

"Settlement Agreement Re: Inmates of the Muslim Faith" means the settlement agreement entered into in the case of In Re: Delaware County Prison Jum'ah Litigation, United States District Court for the Eastern District of Pennsylvania, Civil Action No. 94-5209, relating to the treatment of Inmates of the Muslim Faith, a copy of which has been given to Provider.

"Staffing Plan" means the staffing required to perform the Functional Services as set forth in Article Six and as set forth in Exhibit "A".

"Standards" means: (i) applicable federal and state constitutional requirements; (ii) all applicable laws, regulations and rules, as amended from time to time, including without limitation, the provisions of Title 37, Chapter 95, Sections 95.221 through 95.248 of the Pennsylvania Code setting forth requirements and guidelines applicable to "County Jails", and the policies, procedures, rules and regulations contained in the Delaware County Prison Resident Handbooks for the Men's and Women's Divisions, as amended from time to time; (iii) all applicable court orders, consent decrees and settlement agreements, including without limitation the Consent Decree Re: Inmate Visitation Rights, the Settlement Agreement Re: HIV Matters and the Settlement Agreement Re: Inmates of the Muslim Faith; (iv) the ACA Standards; (v) the latest edition of the requirements of the National Commission on Correctional Health Care Standards for Health Services in Jails; and (vi) the Service Plan attached to this Agreement as Exhibit "C."

"Superintendent" means a person appointed and employed by the Board who, within the limits of the powers given to him or her by the Board, shall be the senior executive of the Prison and shall perform such duties in connection with the operation and management of the Prison as shall be assigned to him or her by the Board. The Superintendent shall report directly to the Board.

1.2 Terminology and Definitions. All references to "herein" in this Agreement shall be deemed to be a reference to the entire Agreement generally and not to specific provisions of this Agreement. All references herein to "including" shall be deemed to be references to "including without limitation." All references herein to "or" shall be deemed to be references to "and/or." All references herein to a party's "sole discretion" shall be construed in all cases and circumstances and for all purposes to mean the sole and absolute discretion of such party without reference to any objective or subjective standards of reasonableness or good faith, the exercise of which such

discretion is not intended to be reviewable by any Person and/or court. All personal pronouns used in this Agreement, whether used in the masculine, feminine, or neuter gender, shall include all other genders; the singular shall include the plural and the plural shall include the singular. The parties to this Agreement have each been represented by sophisticated counsel and therefore no rules construing a document against the interests of its drafter shall be applied in the interpretation and construction of this Agreement.

## **ARTICLE TWO**

### **REPRESENTATIONS AND WARRANTIES**

2.1 **Representations of Provider.** Provider represents and warrants to and for the benefit of the Board, with the intent that the Board shall rely thereon for purposes of entering into this Agreement, as follows:

2.1.1 **Organizations and Qualifications.** Provider has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware with power and authority to own or lease its properties and conduct its business as presently conducted. Provider is duly qualified to do business as a foreign corporation in good standing in the Commonwealth of Pennsylvania. Based upon its experience in providing services at facilities similar to the Prison, Provider hereby represents that it is experienced and capable of providing the Functional Services at the Prison.

2.1.2 **Authorization.** This Agreement has been duly authorized, executed, and delivered by Provider and, assuming due execution and delivery by the Board, constitutes a legal, valid, and binding agreement enforceable against Provider in accordance with its terms.

2.1.3 **No Violation of Agreements, Articles of Incorporation or Bylaws.** The consummation of the transactions contemplated by this Agreement and the fulfillment of its terms shall not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, contract, governmental license or permit, or other agreement or instrument to which Provider is a party or by which its properties are bound, or any order of any court, regulatory body, or administrative agency, except any such conflict, breach, or default which would not materially and adversely affect Provider's ability to perform its obligations under this Agreement, and shall not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under, the Articles of Incorporation (or other corresponding charter document) or Bylaws of Provider.

2.1.4 **No Defaults Under Agreements.** Provider is not in default, nor is there any event in existence which, with notice or the passage of time or both, would constitute a default by Provider, under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, contract, governmental license or permit, or other agreement or instrument to which it is a party or by which any of its properties are bound and which default would materially and adversely affect Provider's ability to perform its obligations under this Agreement.

2.1.5. Compliance With Laws. Neither Provider nor its officers and directors purporting to act on behalf of Provider have been advised, or have any reason to believe, that Provider or such officers and directors have not been conducting business in compliance with all applicable laws, rules, and regulations of the jurisdictions in which Provider is conducting business including all safety laws and laws with respect to discrimination in hiring, promotion or pay of employees or other laws affecting employees generally.

2.1.6 No Litigation. Except as previously disclosed in writing to the Board's counsel, there is not now pending or, to the knowledge of Provider, threatened, any action, suit, or proceeding to which the Provider is a party, before or by any court or governmental agency or body, which might result in any material adverse change in Provider's ability to perform its obligations under this Agreement, or any such action, suit, or proceeding related to environmental or civil rights matters; and no labor disturbance by the employees of Provider exists or is imminent which might be expected to materially and adversely affect Provider's ability to perform its obligations under this Agreement.

2.1.7 Taxes. Provider has filed all necessary federal, state, and foreign income and franchise tax returns and has paid all taxes as shown to be due; and Provider has no knowledge of any tax deficiency which has been or might be asserted against Provider which would materially and adversely affect Provider's ability to perform its obligations under this Agreement. Provider is not responsible for property taxes on the Prison property.

2.1.8 Financial Statements. Provider has delivered to the Board copies of the following financial statement contained in its annual reports, with appended notes and summary of significant accounting policies which are an integral part of such statements: balance sheet at December 31, 2008, and statements of income, shareholders equity, and changes in financial position of Provider for the year ending December 31, 2008. Such financial statements fairly present the financial position of Provider as of December 31, 2008, and the results of its operations for the periods covered, and have been prepared in conformity with generally accepted accounting principles applied on a consistent basis, except as discussed in the notes to the financial statements. On or before the Service Commencement Date, Provider shall deliver to the Board financial statements for the immediately preceding Fiscal year indicating no material adverse change since December 1, 2009.

2.1.9 No Adverse Change. Since the date of Provider's most recent balance sheet provided to the Board, there has not been any material adverse change in Provider's business or condition, nor has there been any change in the assets or liabilities or financial condition of Provider from that reflected in such balance sheet which is material to Provider's ability to perform its obligations under this Agreement.

2.2 Representations of Board. The Board represents and warrants to and for the benefit of Provider, with the intent that Provider shall rely thereon for purposes of entering into this Agreement, as follows:

2.2.1 No Violation of Agreements. The consummation of the transactions contemplated by this Agreement and the fulfillment of its terms shall not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, contract, governmental license or permit, or other agreement or instrument to which the Board is a party or by which its properties are bound or any order of any court, regulatory body or administrative agency, except any such conflict, breach or default which would not materially and adversely affect the Board's ability to perform its obligations under this Agreement.

2.2.2 No Litigation. Except as previously disclosed in writing to Provider's counsel, there is not now pending or, to the knowledge of the Board, threatened, any action, suit, or proceeding to which the Board is a party, before or by any court or governmental agency or body, which might result in any material adverse change in the Board's ability to perform its obligations under this Agreement, or any such action, suit, or proceeding related to environmental or civil rights matters; and except as disclosed to Provider, no labor disturbance by the employee of the Board of County exists or is imminent which might be expected to materially and adversely affect the Board's ability to perform its obligations under this Agreement.

### **ARTICLE THREE** **EFFECTIVE DATE: EXTENSIONS**

3.1 Effective Date of Agreement - Initial Term. This Agreement shall become effective on the Service Commencement Date and shall continue in full force and effect until midnight, December 31, 2012, unless sooner terminated in accordance with Article Nine.

3.2 Extensions. The Parties, by mutual consent, may extend this Agreement for two additional one year terms.

### **ARTICLE FOUR** **SCOPE OF SERVICES**

4.1 General Duties and Obligations: Standards. Provider shall devote its best professional skill and judgment to furnish to the Board the Functional Services. Provider shall furnish the Functional Services in accordance with all applicable Standards and the Service Plan. When differences between applicable Standards exist, Provider shall follow the highest applicable Standard, provided however, that in all cases, Provider shall comply with all applicable provisions of law.

4.2 Functional Services. Provider shall provide the following Functional Services:

4.2.1 Staffing. Provider shall provide the minimal required staff as provided for in Exhibit "A".

4.2.2 Training. Provider shall provide, or obtain, at its own expense, entry level correctional officer training and in-service training, and shall offer at least one training class every 45 days.

4.2.3 Discipline. Provider shall handle disciplinary issues of Inmates in accordance with Article Five.

4.2.4 Food Service. Provider shall provide food services for all Inmates consistent with the USDA food standards and Exhibit "B" hereto.

4.2.5 Laundry and Inmate Clothing. Provider shall provide full Inmate laundry services and Inmate clothing. Each Inmate shall have access to two sets of laundry items.

4.2.6 Transportation. Provider shall provide, at its expense, full transportation services with respect to all Inmates to be housed at the Prison and security when such transportation is provided, including transportation to and from outside medical service providers and hospitals, as necessary, but excluding transportation to court proceedings or other prisons which is provided by the Office of the Sheriff of Delaware County.

4.2.7 Telecommunications. Provider shall provide, maintain, up-grade, if commercially necessary, at its expense, all telecommunications services and equipment adequate for the Prison, except for telephone service to Inmates. Provider acknowledges that telephone service to Inmates will be provided pursuant to contracts between the Board and third parties and all profits from such contracts or replacement or renewal contracts will be paid to the Board for deposit into the Inmate Welfare Fund or such other appropriate fund as determined by the Board for use at the Board's discretion and pursuant to its direction. Inmate Welfare Funds may only be utilized with the prior approval of the Board.

4.2.8 Education. Provider shall provide an appropriate academic and work program commensurate with each Inmate's length of stay and classification and the Service Plan. Provider's programs will include literacy training, GED, post-secondary programs, vocational, substance abuse education, and employment skills training. The program structure shall include basic education 5 days per week (exclusive of established holidays) with open entry/open-exit access to all programs. Provider shall develop a written program plan for each program participant as appropriate.

4.2.9 Health Services. Provider shall provide the full range of required health care, including medical, dental, mental health, pharmaceutical, and record keeping, as necessary to meet all applicable Standards, including the requirement of the latest edition of the National Commission on Correctional Health Care's Standards for Health Services in Jails and the Minimum Health Care Services set forth in the Service Plan, Exhibit "C" hereto. All medical personnel, where applicable, shall maintain appropriate current professional certifications and accreditations, which documentation shall be made available to the Board upon request.



4.2.10 Recreation and Exercise. Provider shall provide adequate physical facilities (inside and outside), equipment, and supplies for a recreation program, consistent with the applicable Standards.

4.2.11 Library. Provider shall provide a library consisting of literary, legal, educational and reference materials.

4.2.12 Visitation. Provider shall implement a visitation program consistent with the law, in compliance with the Rapone Consent Decree, and as may be approved by the Board from time to time.

4.2.13 Commissary. Provider shall provide all resources necessary to establish and maintain a commissary. Any profits generated by the commissary operation shall be paid to the Board for deposit into the Inmate Welfare Fund or such other appropriate fund as determined by the Board, for use at the Board's discretion and pursuant to its direction. Commissary lists and any modifications thereto shall be subject to approval by the Board.

4.2.14 Vending Machines. Provider shall permit all vending machines available to staff to be serviced by the vending machine contractor. All profits from the vending machines shall be paid to Provider for deposit into the staff Sunshine Fund which shall be used exclusively at Provider's discretion and at its discretion for staff functions and welfare.

4.2.15 Prison Goods and Supplies. Provider shall provide, at its expense, all Prison supplies incidental to the provision of services hereunder, including but not limited to hygiene items, clothing, paper, envelopes, and stamps and pencils, and Inmate sheets, pillowcases, blankets and uniforms and supplies for staff. All Prison supplies shall be purchased in accordance with the procurement procedures set forth in Exhibit "B".

4.2.16 Maintenance and Repair: Damage by Casualty.

(a) Provider shall, at its own expense, maintain the physical structure of the Prison and all tangible personal property contained therein and shall from time to time make or cause to be made all ordinary and routine maintenance, repairs, replacements and renewals, including all structural repairs and replacements to the Prison and the tangible personal property. This paragraph is subject to the limitations in Paragraph C below.

(b) Promptly after the occurrence of any damage to or loss of the Prison by casualty that materially affects the continued operation of the Prison, Provider shall notify the Board of such loss or damage.

(c) Provider shall be responsible for the initial \$5,000.00 of any costs associated with each separate event of maintenance, repair, replacement, or renewal. The Board agrees to incur the cost of all capital fund expenditures for replacement of major systems, including but not limited to water boilers and HVAC.

4.2.17 Utilities. The Board shall be responsible for the payment of all utility costs, including electric, sewer, waste removal, and water and gas, incurred in the operation of the Prison, and the DUI/Work Release Center, except for the cost of Provider telecommunication services, which costs shall be the responsibility of Provider. Provider shall be responsible for the payment of any additional charges or penalties incurred for exceeding the allowed usage of sewer services on a monthly basis. The Board agrees that Provider may seek the approval of the Board to pursue design engineering changes to on-site sewer systems, and the approval to make such changes shall not be unreasonably withheld. The cost of such changes shall be the sole responsibility of Provider. Provider will develop a utility conservation plan and use it best effort to reduce or minimize utility costs consistent with Provider's other obligations under this Agreement.

4.2.18 Staff Rules and Regulations. With respect to Provider's staff, Provider will establish and administer disciplinary rules. Provider shall require all of its staff to comply with all laws, including civil rights laws.

4.3 Use of Force. Use of force will be limited to that authorized by and carried out only in accordance with all applicable Standards. Firearms training will meet or exceed the requirements set forth in all applicable Standards.

4.4 Transition. Upon the termination of this Agreement or any extension thereof for any reason, Provider agrees to work with the Board for an additional period of sixty (60) days after the expiration of this Agreement to ensure an orderly transition from Provider services to the Board or other contractor-provided services. During this transition period, Provider shall transfer all necessary records, files and documents for the operation of the Prison, including the not limited to Inmate records, maintenance records and personnel files, to the Board. Provider shall make available such records and files in an electronic form reasonably requested by the Board, if such records or files are available to Provider in electronic form. If the Board or a new contractor wishes to purchase any Provider-owned fixtures, furnishings, or equipment currently in use at the Prison, the Board/new contractor shall provide a list of any such fixtures, furnishings or equipment it wishes to purchase to Provider and Provider shall sell such listed fixtures, furnishings or equipment to the Board/new contractor at the un-depreciated book value of such fixtures, furnishings or equipment as then shown on Provider's books.

## ARTICLE FIVE

### INMATE DISCIPLINARY RULES AND REGULATIONS AND INMATE DISCIPLINE

5.1 Board's Reservation of Rulemaking Powers. The rules and regulations of the Prison respecting Inmate conduct are and shall be those set forth in the Delaware County Prison Resident Handbooks for the Men's and Women's Divisions ("Handbooks), copies of which have been given to the Provider. The Board, subject to the approval of the Judges of the Delaware County Court of Common Pleas, shall have the sole and exclusive power to make, amend, repeal, supplement or otherwise modify or revise the Handbooks. Provider may recommend to the Board modifications to the Handbooks. Such recommended modifications shall have no force and effect unless and until approved and adopted by the Board as provided in this section.

5.2 Issuance and Delivery of Disciplinary Report. Provider shall make a written report ("Disciplinary Report") of each occurrence which may constitute a violation of the Handbooks in accordance with the provisions of Sections 8.1. and 8.2. of the Handbooks and shall promptly provide a copy of such Disciplinary Report to the Office of the Superintendent. A copy of the Disciplinary Report together with (2) copies of the Acknowledgment of Rights set forth in Section 8 of the Handbooks shall be given by Provider to the Inmate who is the subject of the Disciplinary Report at least 24 hours prior to any hearing, in accordance with the provisions of Section 8.3. of the Handbooks.

5.3 Disciplinary Hearing Board and Provider's Report and Recommendations. With regard to each Disciplinary Report, Provider shall convene a Disciplinary Hearing Board. The Disciplinary Hearing Board shall make a report and recommendation ("Provider's Report and Recommendation") to the Office of the Superintendent with respect to whether any violation of the Handbooks occurred and, if so, a recommendation respecting the appropriate discipline or punishment. Provider shall convene the Disciplinary Hearing Board within the time period and in the manner set forth in Section 8.1.A. of the Handbooks. Provider's Report and Recommendation shall be delivered to the Office of the Superintendent promptly upon completion. Provider's Report and Recommendation shall not be binding upon the Office of the Superintendent.

5.4 Board's Reservation of Adjudicative Powers. Provider shall not have the power to adjudicate or determine whether an Inmate has violated any rules or regulations contained in the Handbooks or to assess any punishment or discipline against an Inmate as a result of any such violation. Subject to the Board's power of review and approval, the Office of the Superintendent shall have the power to adjudicate and determine whether an Inmate violated the Handbooks and to assess punishment or discipline for such violations.

5.5 De Novo Hearings and Appeals to the Office of the Superintendent. The Office of the Superintendent shall have the power to convene a three (3) member hearing board to hear any Inmate disciplinary matter de novo ("De Novo Hearing"). An Inmate's right to appeal pursuant to Section 8.1.B of the Handbooks shall be preserved and any such appeal shall be to the Office of the Superintendent where it shall be heard by a three (3) member hearing board ("Appeal Board"). The Superintendent and the Assistant Superintendent of the Prison shall be eligible to participate on any De Novo Hearing or Appeal Board conducted by the Office of the Superintendent, together with such other persons as may be authorized from time to time by the Board to participate on such De Novo Hearing or Appeal Boards.

5.6 Automatic Administrative Review. An Inmate's right to automatic administrative review of all decisions of the disciplinary system pursuant to Section 8.1.C. of the Handbooks shall be preserved. The powers regarding automatic administrative review shall remain with the Office of the Superintendent.

5.7 Discipline Pending Determination of a Disciplinary Report. Pending the determination of a Disciplinary Report, Provider may place a restriction upon an Inmate only in strict accordance with the provisions of Sections 8.5, 8.6 and 8.7 of the Handbooks. The imposition of any such restriction pending determination of a Disciplinary Report shall be promptly reported to

the Office of the Superintendent as part of the Disciplinary Report delivered to that Office. The Office of the Superintendent shall have the power to modify or eliminate any such restriction pending determination of the Disciplinary Report.

5.8 Determination of Violation and Assessment of Discipline. The Office of the Superintendent shall advise Provider in writing of determinations with regard to each Disciplinary Report and the discipline or punishment, if any, assessed against an Inmate. Provider shall carry out the directions of the Office of the Superintendent with regard to Inmate discipline and punishment in strict compliance with the terms thereof, giving notice of the same to the Inmate in accordance with Section 8.4 of the Handbooks. Provider shall keep a written record of its compliance with the directions of the Office of the Superintendent with regard to Inmate punishment and discipline.

5.9 Serious Incident Report. In addition to providing Disciplinary Reports to the Office of the Superintendent, Provider shall make a written record of each serious occurrence in accordance with Provider's Serious Incident Reporting Policy which may constitute a violation of the Prison's rules and regulations and such report shall be available to the Office of the Superintendent at all times.

## **ARTICLE SIX** **STAFFING PLAN**

6.1 Minimum Staffing. Provider shall at all times provide the minimum staff required to fill the Staffing Plan. The Staffing Plan required to perform the Functional Services is attached to this Agreement as Exhibit "A". The Staffing Plan includes: (i) a list of all authorized posts for the Prison; (ii) the shift for each post; (iii) designations signifying whether the post requires relief if the post remains vacant; and (iv) designations on whether the posts are "Required Posts" or "Pull Posts". The Staffing Plan is the minimum staff required to perform the Functional Services. Provider agrees to provide the staff in accordance with the Staffing Plan.

6.1.1 Required Posts. Required Posts are posts which shall be filled at all times during a designated shift. Provider shall at all times staff all Required Posts in strict accordance with the schedules on the attached Staffing Plan.

6.1.2 Pull Posts. Pull Posts are posts which shall be filled at the beginning of a shift but may become temporarily unmanned for a short or designated period of time during a shift due to an unanticipated immediate institutional need for temporary reassignment. Provider shall reassign individuals working in a Pull Posts to assist in other appropriate areas in the Prison. However, in no event shall Provider utilize more than four (4) Pull Posts at one time.

### 6.2 Vacancies in Staffing.

6.2.1 If a post in the Staffing Plan becomes vacant, Provider shall take all appropriate and necessary actions to fill the vacancy. Provider shall fill the vacancy through the use of overtime or a temporary qualified employee until Provider hires an individual to fill the vacant post. The Parties acknowledge that the excessive use of overtime to fill Staffing Plan posts for

which relief is required is to be avoided. Whenever possible, Provider will avoid the use of "back-to-back" overtime assignments. The Parties agree that in the event Provider is unable, after good faith effort, to recruit and fill one or more such vacant posts, the Parties may mutually agree to either substitute an alternative post for the vacant post or eliminate the vacant post and provide the Board with a pro-rata reduction of the Monthly Service Fee.

6.2.2 In the event that a vacancy in a position or post required in the Staffing Plan occurs, the Board shall notify the Facility Administrator in writing. The Facility Administrator may review the Board's findings. If the Parties agree that the vacancy has occurred the Monthly Service Fee may be reduced as follows:

1. **Administrative Positions**

A. The positions listed in the Staffing Plan under Executive Office, Business Office, Food Service, Maintenance, Laundry, Healthcare Services, and Programs in the Minimum Staffing Plan are "Administrative Positions." A position shall not be considered vacant unless the person who held such position is no longer on the Provider's payroll, as shown on the Provider's payroll list as submitted to the Board by Provider from time to time (or at such times as shall be requested by the Board).

B. **Reduction in Monthly Payment**

(1) If any Administrative Position (regardless of any relief requirement) becomes vacant due to resignation, disability, retirement or termination and for the first 45 consecutive days is not otherwise staffed through the use of overtime or a temporary qualified employee, the Monthly Payment, at the sole discretion of the Board, may be reduced by an amount equal to 1 day's salary for that position for each day the position remains vacant and not staffed.

(2) If any Administrative Position (regardless of any relief requirement) is vacant due to resignation, disability, retirement, or termination for more than 45 consecutive days, and regardless if the Administrative Position is staffed through the use of overtime or a temporary qualified employee, the Monthly Payment, in the sole discretion of the Board, may be reduced by an amount equal to 1 day's salary for the position for each day the position remains vacant beyond such 45 consecutive day period. Moreover, Provider shall remain responsible to ensure the performance of all job functions and requirements for any vacant position for which a reduction has been incurred.

- (3) If an Administrative Position for which relief is required is not actually staffed on any shift for which it is designated in the Staffing Plan, the Monthly Payment, in the sole discretion of the Board, may be reduced by an amount equal to 1 day's salary for the post for each shift it was not actually staffed. An Administrative Position for which relief is required shall be considered to be staffed if it has been actually manned, filled or covered by overtime, or by other means expressly approved by the Board. The Board will not be permitted to reduce the Monthly Payment if the Administrative Position for which relief is required is staffed on the shift for which it is designated, if the person staffing the post is absent from the post for 15 minutes or less, or is otherwise temporarily away from the post as a result of a response to an emergency.

## 2. Security Posts

A. The positions listed in the Staffing Plan under Security Supervision, Security Support, K-9 Unit, Intake Unit, Cell Block Supervision, Cell Block #2 (Female), Cell Block #4 (General Population), Cell Block #5 (Male), Cell Block #6 (Male), Cell Block #7 (Male), Cell Block #8 (Male Intake), Cell Block #9 (Male), Cell Block #10 (Male Max/Admin Seg), Cell Block #3 (Male Special Management Unit) and DUI/Work Release Unit) are "Security Posts".

### B. Reduction in Monthly Payment.

- (1) If any Security Post for which no relief is required becomes vacant due to resignation, disability, retirement or termination and for the first 45 consecutive days is not otherwise staffed through the use of overtime or a temporary qualified employee, the Monthly Payment, at the sole discretion of the Board, may be reduced by an amount equal to 1 day's salary for that position for each day the post remains vacant.
- (2) If any Security Post for which no relief is required is vacant due to resignation, disability, retirement or termination for more than 45 consecutive days, and regardless if the Security Post is staffed through the use of overtime or a temporary qualified employee, the Monthly Payment, in the sole discretion of the Board, may be reduced by an amount equal to 1 day's salary for the position for each day the position remains vacant beyond such 45 consecutive day period. Moreover, Provider shall remain responsible to ensure the

performance of all job functions and requirements for any vacant position or post for which a reduction has been incurred.

- (3) If a Security Post for which relief is required is not actually staffed on any shift for which it is designated in the Staffing Plan, the Monthly Payment, in the sole discretion of the Board, may be reduced by an amount equal to 2 day's salary for that post for each shift it was not actually staffed. A Security Post for which relief is required shall be considered to be staffed if it has been actually manned, filled or covered by overtime, or by other means expressly approved by the Board. The Board will not be permitted to reduce the Monthly Payment if the Security Post for which relief is required is staffed on the shift for which it is designated, but the person staffing the post is absent from the post for 15 minutes or less, or is otherwise temporarily away from the post as a result of a response to an emergency.

6.2.3 Regardless of any reduction in Monthly Service Fee, Provider shall remain responsible to ensure that the performance of all job functions and requirements are completed for any vacant position or post.

6.2.4 The Board may grant amnesty to Provider for any penalties accrued during a given thirty (30) day period if Provider can demonstrate a good faith effort to fill all contracted positions. "Good faith" is defined as Provider either conducting 1 recruitment class every 45 days, or maintaining a staffing level of not less than ninety-seven percent (97%) of the contracted full time equivalents.

6.2.5 It is further understood that in the event the Provider approves and grants a long term leave for an employee (i.e. FMLA), the Board shall, at its discretion, be entitled to reduce the monthly payment, in accordance with Section 1 and Section 2, subsections B.2 and B.3 respectively, only if the required performance of all job functions and requirements for said vacant position are not fulfilled through the use of overtime or another temporary qualified employee.

## **ARTICLE SEVEN**

### **COMPENSATION AND OTHER PAYMENTS**

7.1 Compensation During the Term of this Agreement. The Board shall pay Provider for the performance of the Functional Services as the exclusive payment therefore as follows:

7.1.1 Monthly Payment (the "Monthly Payment"). For the purposes of the monthly payment calculation set forth below, the monthly service fee shall include the

housing of an average daily population of 1,883 inmates at the Prison.

Base Years

January 1, 2010 - May 31- 2010	\$3,449,089
June 1, 2010 - December 31, 2010	\$3,586,236
January 1, 2011 - May 31, 2011	\$3,586,236
June 1, 2011 - December 31, 2011	\$3,729,685
January 1, 2012 - May 31, 2012	\$3,754,244 (leap year)
June 1, 2012 - December 31, 2012	\$3,878,873

Option Years

January 1, 2013 - May 31, 2013	\$3,878,873
June 1, 2013 - December 31, 2013	\$4,034,027
January 2, 2014 - May 31, 2014	\$4,034,027
June 1, 2014 - December 31, 2014	\$4,195,389

To the extent the average daily population per day exceeds or is less than 1,883 inmates housed at the Prison, a per diem amount, as indicated below shall be paid or credited by/to the Board, on a daily basis for which the average daily population exceeds or is less than 1,883 inmates.

	Per Diem Payment (Exceeds 1,883)	Credit (Less than 1,883)
January 1, 2010 - May 31, 2010	\$20.00	\$11.75
June 1, 2010 - December 31, 2010	\$20.80	\$12.22
January 1, 2011 - May 31, 2011	\$20.80	\$12.22
June 1, 2011 - December 31, 2011	\$21.63	\$12.70
January 1, 2012 - May 31, 2012	\$21.63	\$12.70
June 1, 2012 - December 31, 2012	\$22.50	\$13.21



Option Years

January 1, 2013 - May 31, 2013	\$22.50	\$13.21
June 1, 2013 - December 31, 2013	\$23.40	\$13.74
January 2, 2014 - May 31, 2014	\$23.40	\$13.74
June 1, 2014 - December 31, 2014	\$24.33	\$14.29

7.2 Compensation During Any Extension of this Agreement. The compensation due to Provider for any contract extension terms shall be established by mutual agreement of the Parties.

7.3 Billing. Billing and payment shall be on a monthly basis. Provider shall bill the Board for payments due for the billing month one calendar month in arrears, on or prior to the tenth day after the end of each calendar month.

7.4 Insufficient Appropriations. In the event insufficient funds are appropriated for the Board to make payments in accordance herewith and neither the Board nor Provider elects to terminate this Agreement, Provider and the Board may renegotiate the terms of this Agreement with respect to scope of the Functional Services, and/or the compensation in order to permit Provider to continue to provide the Functional Services within the level of appropriated funds.

**ARTICLE EIGHT**  
**INDEPENDENT CONTRACTOR**

8.1 Independent Contractor. For purposes of this Agreement, Provider is and shall be an independent contractor. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create the relationships of an employer-employee or principal-agent, or otherwise to create any liability for the Board with respect to the indebtedness, liabilities, and obligations of Provider or any other party. Provider shall be solely responsible for (and the Board shall have no obligations with respect to) payment of all Federal Income, F.I.C.A., and other taxes owed or claimed to be owed by Provider, arising out of Provider's association with the Board pursuant to this Agreement, and Provider shall indemnify and hold the Board harmless from and against, and shall defend the Board against any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any taxes.

8.2 Subcontractors. Subcontractors shall be subject to the prior approval of the Board. However, no contractual relationship shall exist between the Board and any subcontractor, and the Board shall accept no responsibility for the conduct, actions, or omissions of any subcontractor selected by Provider. Provider shall be responsible for the management of the subcontractors in the performance of their work.

8.3 Board's Right to Conduct Criminal History Checks and Refuse to Grant Authority to Enter Upon the Prison Grounds. Notwithstanding anything herein to the contrary, the Board reserves the right to conduct criminal history background checks of any contractor or subcontractor

or any of their employees or any other person who is to come upon the physical premises of the Prison and may refuse to grant any such person authority to enter upon the Prison grounds. Upon request of Provider the Board shall conduct a criminal history background check on any person, prior to the grant of authority to such persons to enter upon the Prison. In addition, the Board shall have the right to refuse to enter upon the Prison grounds any person accused of committing a violation of law.

## **ARTICLE NINE** **DEFAULT AND TERMINATION**

### **9.1 Default by Provider.**

**9.1.1. Events of Default by Provider.** Subject to Section 9.1.2, if applicable, each of the following shall constitute an Event of Default on the part of Provider:

(a) Provider fails to perform, meet or comply with any provision of this Agreement, which failure continues beyond the opportunity to cure period set forth in Section 9.1.2, if applicable.

(b) Provider fails to comply with any applicable Standard or federal state requirement or law.

(c) Provider fails to perform, meet or comply with any Prison policy for which Provider has not received a prior written waiver from the Board.

(d) Provider either (i) admits in writing its inability to pay its debts; (ii) makes a general assignment of the benefit of creditors; (iii) suffers a decree or order appointing a receiver or trustee for it or substantially all of its property to be entered and, if entered without its consent, not to be stayed or discharged within 60 days; (iv) suffers a proceeding under any law relating to bankruptcy, insolvency, or the reorganization or relief of debtors to be instituted by or against it and if contested by it, not to be dismissed or stayed within (60) days; or (v) suffers any judgment, writ of attachment or execution, or any similar process to be issued or levied against a substantial part of its property.

(e) The Board discovers that any statement, representation or warranty in this Agreement is false, misleading, or erroneous in any material respect.

**9.1.2 Opportunity to Cure.** If an Event of Default occurs under Sections 9.1.1(a), (b) and (c), the Board shall give Provider written notice setting forth the deficiency. Provider shall have 30 days from the notice to cure the deficiency. If Provider believes that such deficiency cannot be cured within the 30 day cure period and that such a failure can be cured, through a diligent, ongoing and conscientious effort on the part of Provider within a reasonable period not to exceed 90 days, Provider may, within the thirty 30 day cure period, advise the Board and submit a plan for curing the deficiency. The submitted plan shall show in detail by what means Provider proposes to cure the deficiency and the manner by which Provider will hold the Board harmless from liability

during the cure period. The Board shall promptly review the submitted plan and at its sole discretion may allow Provider to pursue such plan of cure. If the Board does not allow Provider an extension of the cure period to implement the submitted plan, the 30 day cure period shall be tolled during the period of time the request is pending before the Board.

9.1.3 Remedy of the Board. Upon the occurrence of an Event of Default by Provider, the Board shall have the right to pursue any remedy it may have at law or in equity, including but not limited to: (a) reducing its claim to a judgment; (b) taking action to cure the Event of Default, in which case the Board may recover from Provider by offsetting against any payments owed to Provider or otherwise, all reasonable costs incurred by the Board in connection with its efforts to cure such Event of Default; and (c) terminating this Agreement immediately or at a future date and in whole or as to certain services only as specified by the Board, offsetting against any sums owed to Provider by the Board of any reasonable amounts expended by the Board to cure the Event of Default, and recovering from Provider all losses, costs and expenses (including, without limitation, reasonable fees and expenses of counsel) arising directly or indirectly from or in connection with such Event of Default or in connection with the recovery of damages from Provider, including, without limitation, consequential damages.

## 9.2 Default by the Board

9.2.1 Event of Default by the Board. Each of the following shall constitute an Event of Default on the part of the Board:

(a) After appropriation of funds, if the Board fails to make payments due within 30 days after payment is due pursuant to this Agreement, provided such failure to pay shall not constitute an Event of Default if the Board has withheld any payment pursuant to statutory authority or other requirements of law. In the event the Board withholds such payments pursuant to statutory authority or other requirements of law, the Board shall notify Provider promptly.

(b) If the Board fails to observe and perform any covenant, condition, or agreement on its part to be observed or performed, or its failure or refusal to substantially fulfill any of its material obligations of this Agreement, unless caused by the default of Provider, and unless cured by the Board within 90 days after receiving written notice.

(c) Remedy of Provider. Upon an event of Default by the Board, for matters other than disputes concerning payments due pursuant to this Agreement, Provider's sole remedy shall be to terminate this Agreement. Upon such termination, Provider shall be entitled to receive from the Board payment for all services furnished under this Agreement up to the date of termination.

9.3 This Article Paramount. Notwithstanding any other provision of this Agreement, the provisions of Sections 9.4, 9.5, 9.7 and 9.8 shall prevail over any other provisions of this Agreement.

9.4 Termination for Unavailability of Funds. The payment of money by the Board

under any provision of this Agreement is contingent upon the availability of funds appropriated by the County Council of Delaware County. At the time that any proposed budget of the Board is being prepared for any period to be covered by the general or a special appropriation, the Board agrees to submit to the appropriate budget officers and appropriate committees of the County Council of Delaware County a written request for appropriation of money in an amount not less than an amount equal to the payments that shall be required for such period as set out in this Agreement. Neither the Board, nor its appointed officials, officers, employees, agents, attorneys, or other individuals acting on behalf of the Board, make any representation or warranty as to whether any appropriation shall, from time to time during the term or extension of this Agreement, be made by the County Council of Delaware County. In the event funds for this Agreement are unavailable due to non-appropriation, the Board or Provider shall have the right to terminate this Agreement without liability or penalty. An event of non-appropriation shall not cause the Board to be in default hereunder, but in the event of termination by either Party by reason of non-appropriation, Section 9.8.3 below shall be applicable.

**9.5 Termination Due to Third-Party Action.** In the event that any Court Order is issued enjoining performance of this Agreement in whole or in part or enjoining use of all or a material portion of the Prison for the incarceration of Inmates or legislation is enacted which invalidates this Agreement in whole or in part, the Board may, at its option and without penalty, terminate this Agreement, effective as of the date that such injunction or legislation becomes effective. In the event of termination in whole, Provider shall be entitled to compensation for each day up to the termination date. In the case of an injunction or legislation relating to part but not all of this Agreement, the Board may exercise its rights under Section 9.7 in lieu of termination in whole under this Section, by giving the notice required under Section 9.7. Upon termination, either in whole or in part, Provider shall have no right to any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount, except that the Board shall pay for all supplies and equipment on order and not yet delivered to the Prison as of the date of termination (such supplies and equipment to become the property of the Board) and for services rendered by Provider up to the termination date, and shall indemnify and hold harmless Provider from any costs associated with the termination on or after the Service Commencement Date of Provider's employee at the Prison as a result of the Board's termination of this Agreement, provided, however, that Provider shall have a duty to mitigate and the Board shall not be obligated to indemnify or hold harmless Provider from any costs resulting from termination of employees which it could have avoided by taking reasonable steps, including without limitation, providing terminated employees with WARN Act Notices.

**9.6 Termination Due to Damage to Prison.** If any damage or loss shall, in the Board's discretion, render the Prison unusable and shall require more than 30 days to rebuild, repair or restore and if the Board determines not to rebuild, repair or restore the Prison, this Agreement shall terminate 30 days following the occurrence of such damage or loss, without further liability or penalty to the Board. If the Board determines to rebuild, repair or restore the Prison, then the Board shall have the right to do so. In the event any such damage or loss renders the Prison partially unusable and shall require more than 30 days to rebuild, repair or restore the Prison, the Board may, subject to any and all other rights or remedies it may have under this Agreement, after consultation with Provider, equitably reduce the compensation due to Provider pursuant to this Agreement during

the period of such partial rebuilding, repair or replacement.

**9.7 Partial Termination.**

9.7.1 The Board may, at its convenience and without cause, exercise a partial takeover of any service which Provider is obligated to perform under this Agreement, including but not limited to, any service which is the subject of a subcontract between Provider and a third party, although Provider is not in default (hereinafter referred to as "Partial Takeover"). A Partial Takeover shall not be and shall not be deemed to be a default by the Board.

9.7.2 Provider shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the Board will assume and the date of said assumption provided that in the event of an injunction or legislation the Board shall endeavor to give thirty 30 days notice or such lesser notice as shall be practical under the circumstances.

9.7.3 Any Partial Takeover by the Board shall not affect or alter in any way Provider's other obligations under this Agreement.

9.7.4 Upon a Partial Takeover, the Board may withhold from amounts due to Provider the amount Provider would have been paid to deliver the service assumed by the Board as determined by the Board. The amounts shall be withheld effective as of the date the Board assumes the service.

9.7.5 Upon Partial Takeover, Provider shall have no right to recover from the Board any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount, except that the Board shall pay for all supplies and equipment relating to the services taken over by the Board on order and not yet delivered to the Prison as of the date of the Partial Takeover (such supplies and equipment to become the property of the Board) and for services rendered by Provider up to the Partial Takeover date, and shall indemnify and hold harmless Provider from any costs associated with the termination of Provider's employees at the Prison as a result of the Board's Partial Takeover, provided, however, that Provider shall have a duty to mitigate and the Board shall not be obligated to indemnify or hold harmless Provider from any costs resulting from termination of employees which it could have avoided by taking reasonable steps, including without limitation, providing terminated employees with WARN Act Notices.

**9.8 Termination for Convenience.**

9.8.1 Either Party may terminate this Agreement without cause for any reason. Said termination shall not be and shall not be deemed a breach or default of this Agreement by the terminating Party. The terminating Party shall give the other Party 180 days written notice prior to termination of this Agreement pursuant to this Section.

9.8.2 Provider shall be entitled to receive compensation for satisfactory authorized service completed prior to the termination date, but in no event shall the Board be liable to Provider for compensation for any service which has not been rendered.

9.8.3 Upon such termination, Provider shall have no right to any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount, except that the Board shall pay for all supplies and equipment on order and not yet delivered to the Prison as of the date of termination (such supplies and equipment to become the property of the Board) and for services rendered by Provider up to the termination date, and shall indemnify and hold harmless Provider from any costs associated with the termination of Provider's employees at the Prison as a result of the Board's termination of this Agreement, provided, however, that Provider shall have a duty to mitigate and the Board shall not be obligated to indemnify or hold harmless Provider from any costs resulting from termination of employees which it could have avoided by taking reasonable steps, including without limitation, providing terminated employees with WARN Act Notices.

## **ARTICLE TEN**

### **INDEMNIFICATION AND INSURANCE**

#### **10.1 Provider's Duty to Indemnify and Defend the Board and Certain Related Parties In Connection With Certain Third-Party Claims.**

10.1.1 **Provider's Duty to Indemnify.** Provider shall indemnify and hold harmless the Board and the County of Delaware, and each of their respective elected or appointed public officials, officers, agents, employees or representatives (sometimes hereinafter referred to collectively as the "Indemnified Parties", and singularly the "Indemnified Party") from and against any and all loss, liability, judgments, costs, fees and expenses, including without limitation reasonable attorneys' fees, incurred in connection with any and all claims (hereinafter "Indemnified Claims", or singularly "Indemnified Claim") asserted by a third-party against any of the Indemnified Parties arising from, relating to or in connection with Provider's performance or nonperformance of any duty or obligation under the provisions of this Agreement or Provider's doing of or failure to do any act at the Prison, including, without limitation, any and all claims arising from: (a) Provider's provision of Functional Services to the Prison or its Inmates; (b) Provider's promulgation or implementation of any policies or procedures, whether or not such policies or procedures have been reviewed, adopted or approved by the Board; (c) Provider's breach or default of any covenant or agreement to be performed pursuant to the terms of this Agreement; (d) Provider's violation of the civil rights of any Inmate; and (e) any accident, injury or damage whatsoever caused by any act of Provider to any person or party.

10.1.2 **Provider's Duty to Defend.** Whenever any action, suit or proceeding shall be brought against an Indemnified Party alleging an Indemnified Claim, Provider shall be obligated to defend such claim, and in this regard, Provider shall engage counsel of the Board's choosing to defend such action, suit or proceeding on the Indemnified Party's behalf. All fees, costs and expenses associated with such representation shall be paid by Provider. The Provider is under no obligation to engage Board selected counsel to defend the Provider where a clear conflict of interest exists between the Parties.

10.1.3 **Effect of Board Negligence on Provider's Duty to Defend, Indemnify and Hold Harmless.** Provider's duties to defend, indemnify and hold harmless under Section 10.2 shall not be excused or affected by any allegation that the negligence, gross negligence, Inmate civil rights violations, or intentional misconduct of any of the Indemnified Parties caused or contributed, in

whole or in part, to any loss, injury or damage of a third party asserting an Indemnified Claim, provided, however, that Provider shall not be obligated to indemnify any Indemnified Party for any judgment entered against such party pursuant to a finding of gross negligence or intentional misconduct on the part of such Indemnified Party, or any finding or judgment related to the overcrowding of the Prison, or any policy, practice or procedure that is solely the policy, practice or procedure of the Indemnified Party.

**10.2 Board's Duty to Indemnify and Defend Provider In Connection with Certain Third-Party Claims.**

**10.2.1 Board's Duty to Indemnify.** The Board shall indemnify and hold harmless Provider and its officers ("Provider Indemnified Party") from and against any and all loss, liability, judgments, costs, fees and expenses, including reasonable attorneys' fees, incurred in connection with any and all claims (hereinafter "Board Indemnified Claims"): (a) arising out of, relating to or in connection with the services provided at the Prison by the Board or its subcontractors (other than Provider) prior to January 1, 2009, including without limitations, civil rights violations; or (b) primarily arising from or relating to an alleged unconstitutional overcrowding of the Prison over which Provider has no control, except that where any such Board indemnified Claim relating to unconstitutional overcrowding also alleges a claim or claims relating to actions or omissions of Provider and not relating to overcrowding, such other claims shall be defended by Provider and Provider shall be solely responsible for any loss, liability or damage incurred by it relating to the same.

**10.2.2 Board's Duty to Defend.** Whenever any action, suit or proceeding shall be brought against a Provider Indemnified Party alleging a Board Indemnified Claim, the Board shall be obligated to defend such Board Indemnified Claim, and in this regard, the Board shall engage counsel of its choosing to defend such claim on Provider Indemnified Party's behalf. All fees, costs and expenses associated with such representation shall be paid by the Board.

**10.3 Provider's Duty to Cooperate in Selection of Counsel.** The Parties recognize third party claims may be asserted, and suits, actions and proceedings, may be brought thereon, against Provider in connection with Provider's actions and omissions in the performance of its duties under this Agreement as to which the Board has no duty to defend, indemnify or hold harmless Provider and, for which, as between the two of them, Provider is solely liable. The Parties, nonetheless, recognize and agree that the Board has a substantial interest in seeing that such claims are properly defended. Accordingly, except where a clear conflict of interest exists, in connection with any such claims, Provider agrees that it will engage counsel selected by the Board to defend such claims, provided, however, Provider need not accept as its counsel any attorney who has a conflict of interest by reason of a claim against the Board for which it is obligated to indemnify a Provider Indemnified Party by reason of a Board Indemnified Claim.

**10.4 Costs.** The Parties agree that each shall defend itself and each shall be separately liable for its own costs, fees and expenses, including reasonable attorneys fees, incurred in connection with any claim or action seeking to invalidate or enjoin the operation of this Agreement, in whole or in part, including any loss or liability incurred or judgment entered against either Party in connection with any such claim or action.

**10.5 Waiver of Defenses.** Neither the Board nor Provider shall waiver, release, or otherwise forfeit any possible defense the Board, the County or Provider may have regarding claims arising from or made in connection with the provision of Functional Services to the Prison by Provider without the consent of the other party to this Agreement. The Board and Provider shall preserve all such available defenses and cooperate with each other to make such defenses available for each other's benefit to the maximum extent allowed by law, including, with respect to the Board, immunity defenses and limitations of amount or extent of liability. This provision shall include any defenses the Board may have regarding litigation, losses, and costs resulting from claims or litigation pending at the time this Agreement becomes effective or arising thereafter from occurrences prior to the effective date of this Agreement. Provider acknowledges that as an independent contractor it is not entitled to a defense of sovereign immunity or similar defense. A non-intentional waiver by an Indemnified Party shall not affect Provider's duties to defend, indemnify, and hold harmless hereunder.

**10.5.1 Amounts and Types.** During the time of this Agreement, Provider shall maintain an insurance policy for the mutual protection and benefit of it and the Board, naming the Board and its respective officers, agents, and employees, and the County and its respective officers, agents and employees as additional insureds, to cover claims that may arise out of or result from Provider's Functional Services hereunder, whether caused by Provider or a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; and such insurance shall provide the coverage and amounts as follows:

(a) Claims under workers' compensation, disability benefit, and other similar employee benefit acts;

(b) Claims for damages because of bodily injury, occupational sickness or disease, or death of employees, and other similar employee benefits insurance customarily carried by private operators of facilities of similar to the Prison;

(c) Claims for damages because of bodily injury, sickness or disease, or death of any person other than employees;

(d) Claims for damages insured by usual personal liability coverage which are sustained (a) by any person as a result of an act directly or indirectly related to the employment of such person by Provider, or (b) by any other person;

(e) Claims for damage because of injury to or destruction of Provider's tangible property, including loss of use resulting therefrom;

(f) Claims based on Bodily Injuries arising from services performed by Provider for the Board for the following limits: Five Million Dollars (\$5,000,000) each occurrence; Five Million Dollars (\$5,000,000) aggregate;

(g) Claims based on violations of the civil rights acts arising from services performed by Provider for the Board for the following limits: Five Million Dollars (\$5,000,000) each occurrence; Five Million Dollars (\$5,000,000) aggregate;



(h) Claims based on property damage to third Parties, product liability, and false arrest, illegal detention, malicious mischief, invasion of privacy, libel, slander, and defamation of character arising from services performed by Provider for the Board for the following limits: Five Million Dollars (\$5,000,000) each occurrence; Five Million Dollars (\$5,000,000) aggregate.

10.6 Certificates of Insurance and Cancellation. All insurance required by this Article shall be procured and maintained with a financially sound insurance company, such policies shall be furnished to the Board and subject to approval, which approval shall not unreasonably be withheld. Prior to the Service Commencement date, Provider shall deliver evidence of insurance required under this Agreement. Such certificates of insurance shall contain a provision that the Board shall receive written notice at least thirty (30) days prior to the cancellation of any of the coverage's provided under the policies. In the event that any insurance described herein or any portion thereof becomes commercially unavailable, Provider shall immediately apply for and obtain insurance from other insurers meeting the requirements of this Article. In the event that adequate insurance becomes commercially unavailable, the Board may terminate this Agreement upon 30 days prior written notice, without further liability.

## **ARTICLE ELEVEN** **ADDITIONAL COVENANTS**

11.1 Provider shall establish an emergency procedures/security plan for confidential use by staff supervisors employed by Provider, which plan shall be made available to the Board.

### 11.2 Books and Records.

11.2.1 Provider shall keep proper and complete books, records, and accounts with respect to the Functional Services performed and permit the Board on demand to inspect the same and make and take away copies of such materials. Provider will maintain all record in accordance with all applicable Standards.

11.2.2 Provider shall establish appropriate safeguards to protect the confidentiality of Inmate records and minimize the possibility of theft, loss, or destruction.

11.2.3 Any and all records provided to the Prison or any Prison employee by the Board are deemed confidential and privileged information.

11.2.4 These records shall not be disclosed to the Inmate or to any other person other than authorized Board employees who have a need to access said information except as otherwise required by law.

11.2.5 The Board shall make available to Provider access to and use of the Board's computer system with respect to the provision of Functional Services and books, records and accounts maintained by Provider with respect to this Agreement during the term of this Agreement. Provider, at all times, shall maintain system in good working order and condition.

11.3 Maintenance of Corporate Existence and Business. Provider shall at all times maintain its corporate existence and authority to transact business and good standing in its jurisdiction of incorporation. In addition, Provider shall maintain its authority to transact business and maintain good standing in Pennsylvania. Provider shall maintain all licenses, permits, and franchises necessary for its business where the failure to so maintain might have a material adverse effect on Provider's ability to perform its obligations under this Agreement.

11.4 Non-Discrimination. Provider shall at all times provide the Functional Services in compliance with all labor and employment laws, including the Pennsylvania Wage Payment and Collection law and the Civil Rights Act and the Pennsylvania Human Relations Act with respect to employment discrimination. Upon request, Provider shall show proof of such non-discrimination, and shall post in a conspicuous place, available to employees and job applicants, notice of such non-discrimination and all other required work posters. Provider shall provide the Board with copies of its Affirmative Action Plan and all reports required to be filed by it with the Equal Employment Opportunity Commission or any other government agency.

11.5 Additional Services Due to Substantial Change in Standards

In the event that subsequent to the execution of this Agreement any Standard (other than the Service Plan) with which Provider is obliged to comply hereunder is substantially changed or any new Standard is imposed such that compliance with the same will result in Provider's incurring additional costs on an annual basis of \$50,000 or more, Provider may make a request to the Board for additional compensation on account of such changed or new Standard and the consequent additional costs. Any such request to the Board shall include a complete description of the new substantial change in Standards and full and complete documentation of such additional costs. The Board shall consider such request for additional compensation, but shall be under no obligation to grant, approve, or agree to such additional compensation, such decision being vested in the Board's sole discretion. In the event that the Board rejects any request for such additional compensation hereunder, Provider shall have the right to terminate this Agreement upon 120 days prior written notice to the Board. In the event Provider exercises such termination right, the Board may extend the termination date for an additional 120 days, provided that, for such extended period the Board shall pay, in addition to amounts otherwise due under this Agreement, the additional compensation requested by Provider under this paragraph.

**ARTICLE TWELVE**  
**BOARD MANAGEMENT, CONTROL**  
**AND SUPERVISION/BOARD PERFORMANCE EVALUATION**

12.1 Board Management. Notwithstanding anything herein to the contrary, the Board possesses the power and right to and shall manage, regulate, control, and operate the Prison. Without limiting the generality of the foregoing, Provider acknowledges that the Board possesses and reserves the power and right:

- (a) To monitor Provider's actions pursuant to and in compliance with the terms of this Agreement;
- (b) To require Provider to remedy any failure to perform, meet or comply with this

**Agreement;**

**(c) To cure any Event of Default;**

**(d) To terminate this Agreement upon default, upon unavailability of funds, upon third-party action or for convenience (with or without cause) pursuant to the provisions of Article Nine hereof and proceed to provide for the benefit of the Prison the Functional Services in any manner it deems appropriate under law;**

**(e) to effect a Partial Takeover of any service Provider is obligated to perform in this Agreement in accordance with the provisions of Section 9.7;**

**(f) to make, repeal, supplement or otherwise modify or amend the rules and regulations of the Prison respecting Inmate conduct, subject to the approval of the Judges of the Delaware County Court of Common Pleas, should they choose to exercise that power;**

**(g) to conduct investigations and hearings with regard to and to determine violations of the Prison's rules and regulations respecting Inmate conduct and to assess discipline or punishment;**

**(h) to determine good time credits;**

**(i) to determine work release eligibility;**

**(j) to discharge Inmates who have served out their term;**

**(k) to maintain office space within the Prison;**

**(l) to have access to and inspect the Prison, or any part thereof, at any time;**

**(m) to communicate directly with any Inmate at any time and to be informed of and receive any complaint or grievance of any Inmate regarding the nature or manner of his or her treatment or incarceration;**

**(n) to conduct investigations into any Inmate claim, allegation, charge or grievance relating to oppression or abuse within, or mismanagement of, the Prison and in connection therewith to examine any person under oath or otherwise;**

**(o) to have access to and to review upon demand all records maintained by Provider relating to any aspect of Prison operations or Provider's performance of or provision of Functional Services under this Agreement;**

**(p) to direct the manner of sale of all articles manufactured in the Prison;**

**(q) to direct the removal of the person appointed as the Facility Administrator;**

**(r) to review and approve Provider's Service Plan and Policies and Procedures**

Manual and any proposed amendments or revisions to it;

- (s) to review and approve any and all emergency plans proposed by Provider for the Prison;
- (t) to review and approve Provider's plan for self-monitoring pursuant to 12.4;
- (u) to conduct criminal history background checks of any contractor, subcontractor or other person who is to enter upon the physical premises of the Prison and to refuse to grant any such person authority to enter upon the Prison grounds;
- (v) to provide office space to Provider at the Prison; and
- (w) to refuse admission to the Prison grounds of any person.

12.2 Superintendent. Subject to the Board's review and approval, the Superintendent shall possess the following rights and powers, or such other, greater, lesser or different rights and powers as the Board shall determine from time to time:

- (a) to monitor Provider's actions pursuant to and in compliance with the terms of this Agreement and to report to the Board regarding the same;
- (b) to conduct investigations and hearings with regard to and to determine violations of the Prison's rules and regulations respecting Inmate conduct and to assess discipline or punishment;
- (c) to determine good time credits;
- (d) to determine work release eligibility;
- (e) to discharge Inmates who have served out their term;
- (f) to maintain office space within the Prison;
- (g) to have access to and inspect the Prison, or any part thereof, at any time;
- (h) to communicate directly with any Inmate at any time and to be informed of and receive any complaint or any grievance of any Inmate regarding the nature or manner of his or her treatment or incarceration;
- (i) to conduct investigations into any claim, allegation, charge or grievance relating to oppression or abuse within, or mismanagement of, the Prison and in connection therewith to examine any person under oath or otherwise;
- (j) to have access to and to review upon demand all records maintained by Provider relating to any aspect of Prison operations or Provider's performance of provision of Functional Services under this Agreement;

- (k) to direct the manner of sale of all articles manufactured in the Prison;
- (l) to review and approve Provider's Service Plan and Policies and Procedures Manual and any proposed amendments or revisions to it;
- (m) to review and approve any and all emergency plans proposed by Provider for the Prison;
- (n) to review and approve Provider's plan for self-monitoring pursuant to Section 12.4;
- (o) to conduct criminal history background checks of any contractor, subcontractor or other person who is to enter upon the physical premises of the Prison and to refuse to grant authority to any such person to enter upon the Prison grounds; and
- (p) to refuse admission to the Facility grounds of any person.

Subject to the Board's approval, the Superintendent may delegate all or part of the foregoing duties to one or more workers in the Office of the Superintendent.

12.3 Right to Audit. The Board shall have the right to examine records of Provider related to the Prison, including without limitation, financial books and records, maintenance records, Midnight Strength Reports and Inmate records generated by Provider, its subcontractors or any other related parties in connection with performance of this Agreement.

12.4 Self-Monitoring. Prior to the Service Commencement Date, Provider shall develop and submit to the Board for its approval a detailed plan illustrating how Provider intends to monitor operations hereunder to ensure compliance with this Agreement. Provider shall conduct a formal audit at least annually with the results being forwarded to the Board via the Superintendent.

12.5 Monitoring by the Board. The Board, in coordination with the Office of the Superintendent, shall, in its discretion, devise its own checklist or lists for monitoring the quality of Provider's performance of this Agreement and Provider shall cooperate fully with the Board and the Office of the Superintendent in obtaining the requisite information needed to complete such checklists and to assess the quality of Provider performance. Such monitoring by the Board shall not relieve Provider of any of its obligations under this Agreement.

### **ARTICLE THIRTEEN CERTAIN PROHIBITIONS**

13.1 Certain Prohibitions. Notwithstanding any other provision of this Agreement, nothing contained herein shall be interpreted to grant to Provider the authority to, and Provider shall not have any authority to do the following activities, all of which will be performed by the Board or the Office of the Superintendent, pursuant to the Board's direction, oversight and supervision:

13.1.1 Manage, regulate, operate or control the Facility;

13.1.2 Establish or approve rules and regulations respecting Inmate conduct;

13.1.3 Determine violations of rules or regulations respecting Inmate conduct;

13.1.4 Assess discipline or punishment for violation of rules or regulations respecting Inmate conduct;

13.1.5 Award good time credits to Inmates;

13.1.6 Calculate Inmate release and parole eligibility dates;

13.1.7 Determine eligibility for or approve Inmates for work, medical or temporary release or furloughs, or for pre-parole transfers, provided, however, that this Section shall not prevent Provider from making recommendations to the Board with respect to any of the above as more fully set forth in the Service Plan, it being understood that no action may be taken by Provider with respect to the above without the prior written approval of the Board, or the Office of the Superintendent acting on its behalf.

13.1.8 Negotiate or enter into any contract on the Board's behalf.

#### **ARTICLE FOURTEEN MISCELLANEOUS PROVISIONS**

14.1 **Binding Nature.** This Agreement shall not be binding upon the parties until it is approved and executed by both Parties. This Agreement after it is properly approved and executed by the parties, shall inure to the benefit of the Board and Provider and shall be binding upon the Board and Provider and their respective successors and assigns, subject to the limitations set for in Section 14.4 and elsewhere in this Agreement.

14.2 **Invalidity and Severability.** Any provision of this Agreement which is in violation of any state or federal law or regulation shall be deemed amended to conform with such law or regulation; provided, however, that if such change would materially and substantially alter the obligations of the parties under this Agreement, any such provision shall be renegotiated by the parties. The provisions of this Agreement are severable and the invalidity or non enforceability of any terms or provisions hereof shall in no way affect the validity or enforceability of any other terms or provisions hereof. Nothing in this Section 14.2 or in any other provision of this Agreement shall in any way limit or otherwise affect the right and power of the Board to terminate this Agreement or to effect a Partial Takeover of services, pursuant to the provisions of Section 9.7

14.3 **Arbitration.** By mutual agreement, the parties may submit any matter to binding arbitration.

14.4 **Prohibition Against Assignment and Subcontracting.** The Board entered into this Agreement for professional services with Provider on the basis, *inter alia*, of Provider's judgment, skill and experience at providing such services to facilitate such as the Prison. Accordingly, there shall be no assignment or transfer of the interest of Provider, or any portion thereof (whether through assignment, subcontracting or otherwise), or any delegation of Provider's

duties under this Agreement, without the prior written approval of the Board.

**14.5 Governing Law.** This Agreement, and any dispute arising under or related to this Agreement in any manner, shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania with respect to contracts made and to be performed in Pennsylvania, without regard to its conflicts of law principals and rules. The Parties hereby consent to the jurisdiction of any Commonwealth of Pennsylvania court or federal court sitting in the Eastern District of Pennsylvania over any and all suits, actions, or proceedings arising out of or relating to this Agreement.

**14.6 Waiver of Jury Trial.** Each of the Parties hereto irrevocably waives any and all right it may have to a trial by jury in any action, proceeding or claim of any nature relating to this Agreement or under any other documents or agreements executed in connection herewith. Each party acknowledges that the foregoing waiver is knowing and voluntary.

**14.7 Notices.** Any notices, consents or other communications required or permitted by this Agreement shall be in writing and shall be deemed duly given if:

**14.7.1** personally delivered to the addresses set forth below, unless such address is changed by written notice hereunder;

**14.7.2** mailed to each party by certified mail, return receipt requested, postage prepaid, addressed as set forth below (unless such address is changed by written notice hereunder), provided that any notice, consent or other communication sent in such manner shall be deemed to have been given 48 hours after such notice, consent or other communication is postmarked;

**14.7.3** sent by nationally recognized overnight courier, addressed as set forth below (unless such address is changed by written notice hereunder), provided that notices, consents or other communications sent by nationally recognized overnight courier shall be deemed to have been given on the day after the date such notice was deposited with the overnight courier;

**14.7.4** sent by facsimile to the fax number provided below (unless such fax number is changed by written notice hereunder), provided that any notices, consents, or other communications sent by facsimile must be confirmed by regular mail or overnight courier. Notices or other communications sent by facsimile shall be deemed to have been given on the date such notice was sent by facsimile;

**To the Board:** Delaware County Board of Prison Inspectors  
P.O. Box 23-A  
Thornton, PA 19373-0023  
Fax Number: 610-558-1722

**with a copy to:** Robert M. DiOrio, Esquire  
DiOrio & Sereni, LLP  
P.O. Box 1789  
Media, PA 19063  
Fax Number: 610-891-0652

To Provider: Community Education Centers  
Attention: Debra Shannon, Esquire  
Community Education Centers, Inc.  
35 Fairfield Place  
West Caldwell, New Jersey 07006  
Fax Number: 973-740-1793

Notices may be given on behalf of any Party by its legal counsel. Either Party may change its address for receipt of notices and the person to whom notices shall be sent by delivery of a written notice of change to the other Party in the manner set forth in this Section 14.7.

14.8 Entire Agreement. This Agreement, the Exhibits and Attachments hereto incorporate all the agreements, covenants, and understandings between the Parties concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No other prior agreement or understandings, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this Agreement.

14.9 Amendment. No changes to this Agreement shall be made except upon written agreement of both Parties.

14.10 Confidentiality. Confidential information provided to or developed by Provider in the performance of this Agreement shall be kept confidential, unless otherwise provided by law, and shall not be made available to any individual or organization by Provider without prior written approval of the Board.

14.11 Headings. The headings used herein are for convenience of reference only and shall not constitute a part hereof or effect the construction or interpretation of this Agreement.

14.12 Waiver. No failure on the part of any party to exercise, and no delay in exercising, and no course of dealing with respect to any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

14.13 Counterparts. This Agreement may be executed by the different Parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

14.14 No Third Party Beneficiary Rights. Neither Provider nor the Board intends to create rights for any third party by this Agreement and no third party beneficiary rights are created hereby, except those provisions which expressly set forth benefits for Delaware County or for any Indemnified Party or Provider Indemnified Party. For purposes of this Section 14.14, "third party" shall mean all persons except the Board and Provider, including but not limited to employees and affiliates of Provider, subcontractors of Provider, Inmates located at the Prison and members of the general public.

14.15 Laws. Provider shall comply with all applicable federal, state, and local constitutions, laws and regulations, decisions, orders of courts, administrative agencies, and



commissions having jurisdiction, and any applicable state, federal and executive orders in the performance of this Agreement which may be in effect during the term of this Agreement.

In WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the 30<sup>th</sup> day of DECEMBER, 2009

COMMUNITY EDUCATION CENTERS, INC.

BY: \_\_\_\_\_

CEC  
DELAWARE COUNTY BOARD OF  
PRISON INSPECTORS

BY: \_\_\_\_\_

JCH  
JOHN C. HOSIER, President



	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
Healthcare Services	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
Health Services Administrator	5	1.00								1.00	1.00
Director of Nursing (RN)	5	1.00								1.00	1.00
Physician (Medical Director)	5	1.00								1.00	1.00
Medical Secretary	5	1.00								1.00	1.00
Medical Records Clerk/Assistant	5	5.00								1.00	5.00
Nurse Practitioner	7			1.00		1.00		1.00		1.60	4.80
Registered Nurse	5	2.00								1.00	2.00
Registered Nurse	7			2.00		2.00		2.00		1.60	9.60
LPN	5	3.00								1.00	3.00
LPN	7			2.00		2.00		1.00		1.60	8.00
Dentist	5	1.00								1.00	1.00
Dental Technician	5	1.00								1.00	1.00
Psychologist	5	1.00								1.00	1.00
Psychiatrist	5	0.50								1.00	0.50
PT or Contract-20 hrs/wk)	5	0.50									
		17.50	0.00	5.00	0.00	5.00	0.00	4.00	0.00		39.90

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
Programs	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
Assistant Warden - Programs	5	1.00								1.00	1.00
Education Director (GED)	5	1.00								1.00	1.00
Programs Clerk	5	1.00								1.00	1.00
Captain / Volunteer Coordinator	5	1.00								1.00	1.00
Head Counselor	5	1.00								1.00	1.00
Classification Counselor	5	2.00								1.00	2.00
Counselor	5	15.00								1.00	15.00
Work Release Counselor	5	3.00								1.00	3.00
Education Assessment Counselor	5	1.00								1.00	1.00
Programs Psychologist	5	1.00								1.00	1.00
Probation Officer	5	1.00								1.00	1.00
Correctional Specialist	5	2.00								1.00	2.00
Administrative Services Director	5	1.00								1.00	1.00
Administrative Records Supervisor	5	1.00								1.00	1.00
Administrative Records Clerks	5	6.00								1.00	6.00
Food Shop Supervisor	5	1.00								1.00	1.00
Food Shop Instructor	5	0.60								1.00	0.60
Program Supervisor	5	2.00								1.00	2.00
Program CAPP Counselor	5	1.00								1.00	1.00
		44.60	0.00	0.00	0.00	0.00	0.00	0.00	0.00		44.60

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
Security Supervision	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
Deputy Warden	5	1.00								1.00	1.00
Security Clerk	5	1.00								1.00	1.00
Administrative Captain	5	1.00								1.00	1.00
Supervisor of Investigations	5	1.00								1.00	1.00
Investigator	5	1.00								1.00	1.00
Training Administrator	5	1.00								1.00	1.00
Chief of Security	5	1.00								1.00	1.00
Supervisor Lieutenant	7			1.00		1.00		1.00		2.00	6.00
Assistant Shift Supervisor Sergeant	7			1.00		1.00		1.00		1.67	5.00
Detention Arraignment Sergeant	5	1.00								1.20	1.20
Health Services Sergeant	7			1.00		1.00		1.00		1.67	5.00
		8.00	0.00	3.00	0.00	3.00	0.00	3.00	0.00		24.20

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
Security Support											
Central Control Room Officer	7			2.00		2.00		1.00		1.64	8.20
Video Arraignment Officer	5	1.00	1.00							1.20	2.40
Front Entry Officer	7			1.00		1.00		1.00		1.64	4.92
Escort/Utility Officer	7			3.00	2.00	3.00	2.00	2.00	1.00	1.64	21.32
Visual Officer	7			2.00	2.00	2.00	2.00	1.00	1.00	1.64	16.40
Kitchen Officer	7			1.00		1.00				1.64	3.28
Food Shop Officer	5	1.00								1.20	1.20
inmate Visiting Officer	7	3.00	1.00							1.64	6.56
inmate Work Crew Officer	7				2.00		1.00		1.00	1.64	6.56
Outside Work Crew Officer	5		1.00							1.20	1.20
Front Gate Officer	7			1.00		1.00		1.00		1.64	4.92
Interior Sallyport Officer	7			1.00		1.00		1.00		1.64	4.92
Commissary Officer	5	1.00								1.20	1.20
Supply Officer	5		1.00							1.20	1.20
Rear Gate Officer	5			1.00						1.20	1.20
Hospital/Utility Officer	7				2.00		2.00		2.00	1.64	9.84
Paint Crew Officer	5	1.00								1.20	1.20
		7.00	4.00	12.00	8.00	11.00	7.00	7.00	5.00		96.52

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
C-9 Unit											
C-9 Supervisor Lieutenant	5	1.00								1.20	1.20
C-9 Sergeant	5	1.00								1.20	1.20
C-9 Officer	7			1.00	1.00	1.00	1.00	1.00		1.64	8.20
		2.00	0.00	1.00	1.00	1.00	1.00	1.00	0.00		10.60

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
Take Unit											
Take Lieutenant	5	1.00								1.20	1.20
Take/Release Sergeant	7			1.00		1.00		1.00		1.60	4.80
Take/Release Control Officer	7			1.00		1.00		1.00		1.64	4.92
Take/Release Officer	7			3.00		3.00		1.00		1.64	11.48
		7.00	0.00	5.00	0.00	5.00	0.00	3.00	0.00		28.40

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
Block Supervision											
Sergeants (2-Female and 9)	7			1.00		1.00				1.67	3.33
Sergeants (3-SMU and 8-Max)	7			1.00		1.00				1.67	3.33
Sergeants (4 & 7)	7			1.00		1.00				1.67	3.33
Sergeants (5 & 6)	7			1.00		1.00				1.67	3.33
Sergeants (BU1-12-Camp)	7			1.00		1.00				1.67	3.33
Sergeants (11 and Medical)	7			1.00		1.00				1.67	3.33
		0.00	0.00	6.00	0.00	6.00	0.00	0.00	0.00		20.00

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
Block #2											
Block Control Room Officer	7			1.00		1.00		1.00		1.64	4.92
Housing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
Housing Unit Officer	7			1.00		1.00				1.64	3.28
Housing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
/ Rover	7			1.00		1.00				1.64	3.28
		0.00	0.00	5.00	0.00	5.00	0.00	3.00	0.00		21.32

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
ell Block #4	7			1.00		1.00		1.00		1.64	4.92
ell Block Control Room Officer	7			1.00		1.00		1.00		1.64	4.92
& B Housing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
& D Housing Unit Officer	7				1.00		1.00			1.64	3.28
ility Rover	7										
		0.00	0.00	3.00	1.00	3.00	1.00	3.00	0.00		18.04

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
ell Block #5	7			1.00		1.00		1.00		1.64	4.92
ell Block Control Room Officer	7			1.00		1.00		1.00		1.64	4.92
& B Housing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
& D Housing Unit Officer	7				1.00		1.00			1.64	3.28
ility Rover	7										
		0.00	0.00	3.00	1.00	3.00	1.00	3.00	0.00		18.04

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
ell Block #6	7			1.00		1.00		1.00		1.64	4.92
ell Block Control Room Officer	7			1.00		1.00		1.00		1.64	4.92
& B Housing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
& D Housing Unit Officer	7				1.00		1.00			1.64	3.28
ility Rover	7										
		0.00	0.00	3.00	1.00	3.00	1.00	3.00	0.00		18.04

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
ell Block #7	7			1.00		1.00		1.00		1.64	4.92
ell Block Control Room Officer	7			1.00		1.00		1.00		1.64	4.92
& B Housing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
& D Housing Unit Officer	7				1.00		1.00			1.64	3.28
ility Rover	7										
		0.00	0.00	3.00	1.00	3.00	1.00	3.00	0.00		18.04

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
Block #8	7			1.00		1.00		1.00		1.64	4.92
Block Control Room Officer	7			2.00		2.00		2.00		1.64	9.84
ousing Unit Officer (Intake)	7			1.00		1.00		1.00		1.64	4.92
ousing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
ousing Unit Officer	7				1.00		1.00			1.64	3.28
ousing Unit Officer	7									1.64	3.28
ity Rover	7										
		0.00	0.00	6.00	1.00	6.00	1.00	5.00	0.00		31.16

	5/7	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
	Day	Required	Pull	Required	Pull	Required	Pull	Required	Pull		
Block #9	7			1.00		1.00		1.00		1.64	4.92
Block Control Room Officer	7			1.00		1.00		1.00		1.64	4.92
B Housing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
D Housing Unit Officer	7				1.00		1.00			1.64	3.28
ity Rover	7										
		0.00	0.00	3.00	1.00	3.00	1.00	3.00	0.00		18.04

	5/7 Day	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
		Required	Pull	Required	Pull	Required	Pull	Required	Pull		
Cell Block #10											
Cell Block Control Room Officer	7			1.00		1.00		1.00		1.64	4.92
Housing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
Housing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
Housing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
Housing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
Utility Rover	7				1.00		1.00			1.64	3.28
		0.00	0.00	5.00	1.00	5.00	1.00	5.00	0.00		27.88

	5/7 Day	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
		Required	Pull	Required	Pull	Required	Pull	Required	Pull		
Cell Block #3 (Male SMU)											
SMU Control Room Officer	7			1.00		1.00		1.00		1.64	4.92
Asst. Seg. Housing Unit Officer	7			1.00		1.00		1.00		1.64	4.92
Admin. Seg. Housing Officer	7			1.00		1.00		1.00		1.64	4.92
		0.00	0.00	3.00	0.00	3.00	0.00	3.00	0.00		14.76

	5/7 Day	Non-Shift		Shift 1		Shift 2		Shift 3		Relief	FTE
		Required	Pull	Required	Pull	Required	Pull	Required	Pull		
UI / Work Release Unit											
Housing Officer (Female)	7			2.00		2.00		1.00		1.64	8.20
Housing Officer (Male)	7			1.00		1.00		1.00		1.64	4.92
		0.00	0.00	3.00	0.00	3.00	0.00	2.00	0.00		13.12

	Required	Pull	Required	Pull	Required	Pull	Required	Pull	Relief	FTE
<b>CILITY TOTALS</b>	<b>123.10</b>	<b>4.00</b>	<b>71.00</b>	<b>16.00</b>	<b>70.00</b>	<b>15.00</b>	<b>51.00</b>	<b>5.00</b>	<b>0.00</b>	<b>505.66</b>

Original Staffing Plan  
 1st. Warden Judicial Affairs  
 1st. Clerk  
 1st. Booking Specialist  
 1st. former Pysmith Contract

500.66  
 (1.00)  
 (1.00)  
 1.00  
 6.00  
 505.66

## EXHIBIT "B"

Except as expressly provided in this Exhibit "B", all terms in this Exhibit "B" shall have the same meaning as set forth in the Agreement.

### SERVICE PLAN MINIMUM FOOD SERVICE STANDARDS

#### SCOPE:

Food services shall be provided to both the Men's Division and the Women's Division. Food services for the Work Release Center shall not be provided except to the extent outlined herein. Food services shall be required every day of the year, three times per day, and shall meet all conditions and specifications hereinafter set forth.

#### LICENSES AND PERMITS:

All federal, state and local licensing and permit requirements relating to the purchase, handling, storage, preparation, delivery and disposal of food and beverages must be met by Provider at its cost.

#### SURPLUS FEDERAL GOVERNMENTAL FOODS:

Provider shall accept and make use of government-donated commodities when available and if wholesome and appropriate for menu purposes. Provider shall comply with all requirements of the U.S. Department of Agriculture in this regard. Provider shall be responsible for the handling, storage and preparation of such commodities; (1) Provider shall take a weekly inventory of such quantities on hand at the beginning of the week; (2) the quantities used, the quantities lost through spoilage, theft or shrinkage, and (3) the balances at the end of the week.

Provider shall provide bag lunches for Inmates going to Court, Work Release and transfers. The bag lunch shall consist of the minimum, two (2) sandwiches, (minimum 4 ounces of protein), fruit and/or dessert or chips, and one eight ounce container of milk or juice and condiments. Provider should expect an average of eighty-five (85) lunches per day. Bag lunches are also to be provided for the general population as a lunch meal on Saturdays and Sundays due to visitation schedule. Bag lunches shall be made available for the staff during emergency situations as requested by the Administrative Staff of the Prison.

If the utilities are disrupted for whatever reason, or other emergency situations arise which makes the use of Prison's kitchen impossible or impractical, Provider must make other facilities available to supply means to the prison. This is to be done at no additional cost to the Board. Written agreement authorizing said price change for this situation is to be made by the Board only.

#### WORK RELEASE CENTER:

Provider shall provide food and beverages, in bulk, for the Work Release Center. It shall be responsible to supervise the preparation of such food and beverages, and it shall not be responsible for any equipment, appliances, cookware, plates, utensils and incidental items used.

**REQUIREMENTS:**

Provider shall be responsible for assuring that the correct merchandise is ordered and that deliveries are made to correspond with appropriate schedules and security measures. The institution may require advance notification of deliveries.

Vendor will follow the minimum quality standards listed below:

<b>BEEF</b>	<b>USDA Good or Better</b>
<b>GROUND BEEF &amp; BEEF PATTIES</b>	<b>USDA Good or Better, maximum 5% TVP added</b>
<b>LAMB</b>	<b>Roast (Leg) - Choice Chops (Rack &amp; Loin) - Choice Stew Meat - Best Quality</b>
<b>POULTRY</b>	<b>All - USDA Grade A</b>
<b>EGGS</b>	<b>USDA Grade A, Medium</b>
<b>SMOKED MEATS</b>	<b>Best Quality</b>
<b>SEAFOODS</b>	<b>USDA Grade A</b>
<b>DAIRY PRODUCTS</b>	<b>USDA Grade A</b>
<b>COFFEE &amp; TEA</b>	<b>Best Grade/National Brands</b>
<b>OTHER BEVERAGES</b>	<b>Grade B</b>
<b>FROZEN FRUITS AND VEGETABLES</b>	<b>Grade B</b>
<b>CANNED FRUITS AND VEGETABLES</b>	<b>Extra Standard or Better</b>
<b>FRESH FRUITS AND VEGETABLES</b>	<b>Retail Quality, Grade #1 from USDA</b>
<b>PROVISION AND VARIETY MEATS</b>	<b>Retail Quality, Grade #1 from USDA inspected plants</b>



## EXHIBIT "C"

### HEALTH CARE SERVICE PLAN

1. The health care delivery system must conform to the state standards for medical services provided in correctional institutions as established by the Pennsylvania Department of Corrections, Commonwealth of Pennsylvania, Title 37, or any other appropriate state authority. The system must also conform to the latest edition of the Standards for Health Services in Jails, as established by the National Commission of Correctional Health Care. Generally, health care at the Prison should be equivalent to that available in the Delaware Valley community with Provider using at all times only licensed, certified and professionally trained personnel.

2. Provider shall use the Infirmary at the Prison whenever possible and appropriate in the performance of its duties under the Contract. Provider shall be required to examine and treat any Inmate in segregation, or otherwise unable to attend sick call, in the cell of said Inmate. Provider shall be required to render emergency care at any location of Prison property.

3. Policies and procedures of Provider relating to medical care are to be established and implemented solely by Provider. In areas which impact upon the management and operation of the Prison, the policies and procedures of Provider are subject to the review and approval of the Board, without limiting the responsibility of Provider to make its own medical, mental health and dental judgments or the discretion of the Board or of the Office of the Superintendent to perform its responsibilities under law. Those areas are as follows:

### MINIMUM HEALTH CARE SERVICES

1. The health care delivery system, in terms of care provided or arranged to be provided either within the Prison or outside of the Prison must conform to standards for medical services provided in correctional institutions as established by the Pennsylvania Department of Corrections, the Commonwealth of Pennsylvania, PA Code Title 37, and any applicable authority. The system must also conform to the latest edition of the Standards for Health Services in Jails (the "Standards"), established by the National Commission on Correctional Health Care (NCCHC). Generally, health care at the Prison would be equivalent to that available in the Delaware Valley community with Provider using at all times only licensed, certified, and professionally trained personnel.

2. Provider shall use the Infirmary at the Prison whenever possible and appropriate in the performance of its duties under the Contract. Provider shall be required to examine and treat any Inmate in segregation, or otherwise unable to attend sick call, in the cell of said Inmate. Provider shall render emergency care at any location of Prison property.

3. Policies and procedures of Provider relating to health care are to be established and implemented solely by Provider. In areas where impact upon the management and

operation of the Prison or Inmate health care provided or arranged for by the Provider outside of the Prison, the policies and procedures of Provider are subject to the review and approval of the Board, without limiting the responsibility of Provider to make it's own medical, mental health, substance abuse, and dental care judgments or the discretion of the Board or of the Office of the Superintendent to perform it's responsibilities under law, which responsibilities include (but are not limited to) the following:

- a) Drug, syringe and instrument security;
- b) Alcohol and drug medical detoxification;
- c) Identification, care and treatment of Inmates with special medical needs, including but not limited to, individuals with hepatitis, epilepsy, physical handicaps, those infected with Human Immunodeficiency Virus (HIV), and those with any other disease that can be sexually transmitted;
- d) Suicide prevention;
- e) The use of physical restraints;
- f) Identification, care and treatment of individuals suffering from any mental illness, disease or injury, including but not limited to those Inmates presenting a danger to themselves or others;
- g) Medical determinations incident to admission;
- h) Provision of medication supply and medication instructions, as required;
- i) Orientation with respect to medical services and other treatment programs; and,
- j) The development and implementation of local policies required by law, regulation or other applicable authority.

The Board retains the right to review and approve policies and procedures of Provider in any area affecting the performance of the Board's responsibilities under law. Furthermore, it is understood that security personnel at the prison have the responsibility to maintain or implement a program whereby they will properly and promptly notify Provider of any requests and/or need that they are aware of for medical treatment, and make the patient available for such treatment.

4. In addition to the compensation agreed to in this Agreement, Provider shall seek reimbursement for services rendered under this Contract from any available third party, including other governmental agencies or programs, Blue Cross and/or Blue Shield or any other health insurance group. Provider shall remit any amounts collected from any other sources to the Prison up to the total amount paid by the Prison for the claim(s) to which

such remittance relates. Provider shall, to the maximum extent possible, negotiate contracts with hospitals, physicians, dentists and other providers of medical services which require such to first seek payment for services provided to Inmates from other sources prior to seeking payment from Provider for such care. The Officer of the Superintendent shall cooperate with Provider in these efforts.

5. The attached Health Services Specification 1 through 22 are attached hereto and made a part of the Minimum Health Care Services under the Contract.

### **HEALTH SERVICES SPECIFICATIONS**

1. Health care services must be provided in compliance with the latest Standard for Health Care Services in Jails (the "Standards"), established by the National Commission on Correctional Health Care (NCCHC). More specifically, the services provided must meet the NCCHC standards to the extent required to achieve NCCHC accreditation.

No language or description contained in the specifications that follow is intended, nor shall be interpreted, in such a way as to relieve the proposer from its obligation to achieve NCCHC accreditation, which is a primary goal of these specifications. It is specifically understood and agreed that Provider shall not be responsible for any Inmate health care cost prior to an Inmate's initial intake into the Prison.

2. Provider must recruit, interview, hire, train and supervise all health care staff and such health care staff must be adequate to meet all conditions and specification of this contract. All medical staff providing services under this contract must be licensed to practice in the Commonwealth of Pennsylvania. At minimum, Contractor shall provide a full time on-site Health Services Administrator who shall have general responsibility for the successful delivery of health care at the Prison, pursuant to this Contract.

3. Provider shall perform a Receiving Screening on all new commitments to the Prison immediately following their arrival at the Prison. Such screening shall be conducted by a qualified medical professional or trained correctional officer and shall include as a minimum:

- a) Documentation of current illnesses and health problems, including medications taken, and special health requirements;
- b) Behavior observations, including state of consciousness, mental status, and whether the Inmate is under the influence of alcohol or drugs;
- c) Notation of body deformities, trauma markings, bruises, ease of movement, etc.; and
- d) Conditions of skin and body orifices, including infestations.

A standard form will be used for purposes of recording the information of the Receiving Screening and will be included in the health record of the Inmate. Referral of the Inmate for special housing, emergency health services, or additional medical specialties will be made as appropriate.

4. Provider shall perform a comprehensive Health Assessment on any Inmate confined at the Prison for longer than seventy-two (72) hours within fourteen (14) calendar days of the admission of the Inmate to the Prison. Such assessment shall be performed by a Qualified Health Care Professional as such is defined in the Standards.

At a minimum, the comprehensive Health Assessment shall include:

- a) Review of the Receiving Screening results by the Program Administrator or responsible physician;
  - b) Additional date necessary to complete a standard history and physical examination;
  - c) Screening test, as clinically indicated, for tuberculosis, venereal disease, and Human Immunodeficiency Virus (HIV) as well as urinalysis will be performed;
  - d) Additional diagnostic procedures, as directed by the physician, for indicated medical or health problems;
  - e) Height, weight, pulse, blood pressure and temperature;
  - f) For females, inquiry about menstrual cycle and unusual bleeding, the current use of contraceptive medications, the presence of an IUD, breast masses and nipple discharge, and possible pregnancy;
  - g) Any abnormal results of the Health Assessment shall be reviewed by a physician for appropriate disposition.
5. Provider shall perform a Mental Health Screening on any Inmate no later than fourteen (14) days after admission to the Prison. The Screening shall be performed by a qualified mental health professional. Inmates with a positive screen shall receive a Mental Health Evaluation by a licensed mental health professional. Appropriate care and treatment shall be provided.
6. Provider shall identify the need, schedule, coordinate and pay for all non-emergency and emergency medical care rendered to Inmates inside or outside the Prison. Provider shall administer emergency first response medical care at the Prison to any employee or visitor of the Prison who requires such care, and shall obtain other medical assistance as necessary with respect to the care of such persons. Non-emergency transportation of Inmates to and from outside inpatient or outpatient

facilities will be done at the convenience and expense of Provider.

7. Provider shall identify the need, schedule, coordinate and pay for any inpatient hospitalization of any Inmate, subject to the defined catastrophic limits as hereinafter stated. This shall include all institutional charges, physician charges and any and all other additional charges. Provider shall make arrangements for emergency transportation to the appropriate medical facility and reimbursement to the provider of emergency transportation for the service provided. Nonetheless, the Board is responsible for cost of medical care in the following specific areas within the limits stated therein:

- a) Any contagious illness affecting more than one (1) Inmate where the actual costs incurred by Provider for treatment exceeds a cumulative total of Twenty-Eight Thousand Dollars (\$28,000.00);
- b) Any injuries to more than one (1) Inmate arising from the same occurrence where that actual costs incurred by Provider for treatment of Inmates so injured exceed a cumulative total of Twenty-Eight Thousand Dollars (\$28,000.00);
- c) Any illness, including any mental illness, affecting only one (1) Inmate where the actual costs incurred by Provider for treatment exceeds a cumulative total of Twenty-Eight Thousand (\$28,000.00); and
- d) Any injury to only one (1) Inmate where actual costs incurred by Provider for treatment of the Inmate so injured exceeds a cumulative total of Twenty-Eight Thousand Dollars (\$28,000.00).

The amounts set forth above shall be carried over each Agreement Year, provided that in no event shall the amount carried over exceed Twenty-Eight Thousand Dollars (\$28,000.00) for any specific item. This allocation of certain costs shall be considered an exception to the general rule that Provider is responsible for all medical care, which allocation shall constitute the defined catastrophic limits.

Provider shall, for any event described in subsections (a) through (d), inclusive, that Provider anticipates will generate medical costs in excess of Twenty-Eight Thousand Dollars (\$28,000.00) submit to Prison a care and utilization management plan detailing the anticipated course of treatment and prognosis.

8. Provider shall identify the need for, schedule, coordinate and pay for all physician services rendered to Inmates inside or outside the Prison. At minimum, Provider shall identify a "responsible physician" who shall conduct sick call and generally provide such care as is available in the community. The "responsible physician" or another covering physician shall be on call seven (7) days per week, twenty-four (24) hours per day for emergency situations.

9. Provider shall identify the need, coordinate and pay for all supporting diagnostic examinations and tests for Inmates, both inside and outside the Prison. Provider shall also provide and pay for all laboratory services, as indicated.
10. Provider shall provide the necessary follow-up for health problems identified by any examinations, screening tests or laboratory tests. This may include inpatient or outpatient hospitalization, appropriate monitoring and prescription of medications, consultations with specialty physicians, as well as all other medically necessary services.
11. Provider shall identify the need, schedule, coordinate and pay for psychiatric, psychological and counseling services rendered to Inmates inside the Prison and inpatient psychiatric hospitalization confinements.
12. Provider shall identify the need, schedule, coordinate and pay for the services of an optometrist. Provider shall provide any Inmate with one (1) pair of ordinary glasses, if prescribed and deemed necessary by a physician for minimal function by such Inmate.
13. Provider shall provide a dental program for Inmates, inclusive of basic dental services, including extractions, filling and oral hygiene. Emergency dental service shall be available on a twenty-four (24) hour a day basis. Dental screening shall be given to all Inmates within fourteen (14) calendar days of admission to the Prison. A dental screening includes visual observation of the teeth and gums and notation of any obvious gross abnormalities requiring immediate referral to a dentist. Within ninety (90) calendar days of admission, a dental examination shall be performed by a dentist. A dental exam shall include charting decayed, missing and filled teeth, and taking a dental history of the Inmate; a dental record shall be maintained as part of the medical record of the Inmate. Annual dental examinations shall be performed on each sentenced Inmate.
14. Provider shall provide a total pharmaceutical system for the Prison beginning with a physician prescribing medication, the filling of the prescription, the dispensing of medication, and necessary record keeping. Provider shall be responsible for the costs of all drugs administered. The pharmaceutical system shall include prescription medications and over-the-counter medications. All prescription medications shall be prescribed by the responsible physician and or a psychiatrist and shall be administered and dispensed by a licensed nurse. All controlled substances, other medications, syringes, needles and surgical instruments will be stored under security conditions acceptable to the Superintendent of the Prison, and otherwise in compliance with all applicable statutes and regulations.
15. Provider shall provide a medical detoxification program for drug and/or alcohol addicted Inmates. Such program shall be administered within the facilities of the Prison.
16. Provider shall provide and pay for all equipment and supplies used in the health care delivery system administered under this Contract. Also, Provider shall have the use

of any equipment presently on the premises and owned by the Prison relating to medical care. Regardless of ownership of any equipment, Provider shall at its cost be solely responsible for the maintenance, insurance, calibration, and all other aspects of such equipment, and shall ensure that all equipment necessary for the provision of care anticipated under the Contract is kept in good working order for so long as it is used for such purposes.

17. Provider shall maintain complete and accurate medical record separate from the Prison confinement records of the Inmate. In any criminal or civil litigation where the physical or mental condition of an Inmate is at issue or where medical care is at issue, Provider shall provide the Office of the Superintendent with access to such records and, upon request, provide copies.

18. Provider shall provide consultation services to the Office of the Superintendent on any and all aspects of the health care delivery system at the Prison including evaluation and recommendations concerning existing or new programs, architectural plans, staffing patterns for new facilities, alternate pharmaceutical and other systems, and on any other matter relating to this Contract upon which the Office of the Superintendent or Board seeks the advise and counsel of Provider.

19. Provider shall maintain the Prison's current accreditation of the National Commission on Correctional Health Care. Failure to maintain such accreditation will result in Provider being considered in breach of this Agreement and the Board shall be entitled to exercise its remedies under this Agreement.

20. Provider, while providing all Inmate health care and treatment services anticipated in this Agreement, shall control and take all reasonable actions to reduce the cost of such services.

- a) Provider shall provide all health care and treatment services as and when required under this contract by application of managed care principles, which include:
  - (i) Prior, concurrent, and retrospective review of the quality, medical necessity, and/or appropriateness of services or site of services;
  - (ii) Controlled access to and/or coordination of services through case management, chronic care/disease management and demand management (e.g. encouragement of Inmates to optimize the efficient use of appropriate health care services);
  - (iii) Efforts to identify treatment alternatives and to modify benefits for Inmates with high cost conditions;
  - (iv) Provision of services through a network of contracting clinicians and facilities, selected and deselected on the basis of standards related

to cost-effectiveness, quality, geographic location, specialty, and/or other criteria; and

- (v) Best efforts to obtain acceptance by participating clinicians and facilities of financial risk, or discounted fees, for some or all of contractually obligated services.
- b) Provider shall, not later than June 30, 2010, provide Board with:
- (i) A report on the status of Provider's efforts with respect to each of the principles described in subsection (a)(i) through (v), above;
  - (ii) A plan and proposed schedule to implement a) any such principle not then in effect, and b) any proposed changes to current policies and procedures concerning such principles, inclusive of the identification of any impediments or preconditions which could effect implementation; and
  - (iii) An analysis of the estimated cost to implement such principles or changes, as well as the quality of care and estimated net financial impacts on Provider and the Board in each case with respect to implementation of, or changes to, policies and procedures relating to such principles.
- c) At any time after delivery of the materials described in subsection (b), but in any event not later than each December 1 and June 1 throughout the term of this Agreement and any extensions thereof, Provider shall provide Board with status reports, plans and schedules with respect to proposed changes to policies and procedures relating to the principles described in subsection (a)(i) through (v) above, as well as the quality of care and estimated financial impact on Provider and Board of each such change.
- d) Board may at any time request Provider to evaluate proposed changes in Provider's health care and treatment systems, inclusive of (but not limited to) retention by Provider and/or Board of one or more contractors or subcontractors to deliver, coordinate, investigate or pay claims for and/or manage any or all of the health care or treatment services described in this contract and the use of electronic and/or telemedicine practices, Provider shall, in its evaluation of such proposed changes, assess not less than the following:
- (i) Impacts of such changes on the quality of care provided to Inmates;
  - (ii) Feasibility of implementing such changes, taking into account current contractual arrangements, availability of resources necessary to effectuate such changes, required capital investment, non-health



care/treatment costs to Provider and Board, barriers or impediment to implementation, and other relevant considerations;

- (iii) Alternatives and/or changes to such proposed changes as may be identified by Board or Provider;
  - (iv) Estimated timeline(s) for implementing such changes; and
  - (v) Such other considerations as may be specified by the Board or that Provider shall find to be relevant.
- e) Provider may at any time propose to Board changes described in subsection (d), and shall provide Board with the assessment required in subsection (d)(i) through (v) with respect to each such change.
- f) Board and Provider agree that the financial benefits derived from improvement in health care processes should be shared between them equitably. In the event Board or Provider proposes that Board and/or Provider implement any change described in subsections (d) or (e), each shall present proposed changes to the compensation provided to Provider under Article Seven, as well as any changes to the financial responsibility of the Board with respect to health care or treatment services provided to Inmates, the scope or amount of insurance coverage (including, but not limited to excess medical liability coverage), and such other matters as each deems to be necessary or desirable. Upon presentation of such proposed changes in compensation and/or financial responsibility, Board and Provider shall negotiate in good faith with respect to the allocation of any additional costs, savings and/or other considerations.

***No changes effectuated as a result of operation of this section shall in any way reduce the obligation of provider to provide health care or treatment services in the amount and quality otherwise required under this Agreement.***

- g) Board and Provider acknowledge that hospital-related services represent a significant portion of the costs of managing the Prison. Each agrees that if Delaware County, Provider and/or Board obtain discounts from, or negotiate changed payment arrangements with any hospital or other provider of Inmate health care services that Board and Provider shall negotiate in good faith with respect to the allocation of any savings recognized as a result of such discounts or arrangements (including without limitation health care, security and transportation costs) and all other relevant considerations.

21. Provider shall within twenty-four (24) hours after identification, report to Prison any Inmate who has been diagnosed with any of the following conditions, such report being accompanied by information on the nature and severity of such condition(s), any chronic care management measures then being taken, a plan for the continuation of such

measures or the commencement of such measures, any appropriate drug and/or therapy regimen(s), and any other information relevant to determining a course of care and prognosis:

- a) **Asthma/Pulmonary Disease** - individuals with "poor control" or "worsened status" as outlined by NCCHC chronic care guidelines
- b) **COPD** - individuals with "poor control" or worsened status" as outline4d by NCCHC chronic care guidelines for pulmonary disease-individual in end state disease requiring oxygen
- c) **Congestive Heart Failure** - individuals in states B (if recent MI and surgery is an option), C, D of heart failure
- d) **Diabetes** - individuals with "poor control" or worsened status" as outlined by NCCHC chronic care guidelines
- e) **Renal Disease** - individuals in stage 4 and 5
- f) **Epilepsy** - individuals with "poor control" or "worsened status" as outlined by NCCHC chronic care guidelines
- g) **Hemophilia**
- h) **HIV/AIDS** - individuals with "poor control" or "worsened status" as outlined by NCCHC chronic care guidelines
- i) **Hypertension** - individuals with "poor control" or "worsened status" as outlined by NCCHC chronic care guidelines
- j) **Tuberculosis**

22. Notwithstanding anything contained herein to the contrary, as an integral part of its services hereunder, Provider agrees to supply medical services within the Prison by licensed physicians forty (40) hours per week. It is understood however, that as medical needs rise and fall over the annual period that forty (40) hours per week may be provided by several licensed physicians.