


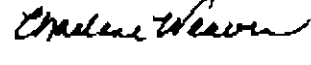


Date: 05/21/2015		AGENDA ITEM		Item: 19
<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Budget Resolution	<input checked="" type="checkbox"/> Other	
Department: Public Protection Division: Corrections				
Subject: Award of contract for inmate banking and commissary services, 14-P-61RF				
George Recktenwald Director Public Protection  Department Approval	Pamela Wilsky Approved in Accordance with Purchasing Policies and Procedures Tammy Bong Director Management and Budget  Approved as to Budget Requirements	Legal Michael G. Moore  Approved as to Form and Legality	County Manager's Office Charlene Weaver, CPA, CFO Deputy County Manager 	
Council Action:				
Modification:				
Fund Number(s):		Description:		Amount:
123 Corrections-welfare Trust		Revenue Inmate Commissary Fund-Commission Sales		\$370,000.00
Total Item Budget: \$370,000.00				
Staff Contact(s):		Phone:		Ext.
George Recktenwald		386 740 5120		12900
Marilyn Chandler Ford		386 323 3505		13505
Summary/Highlights:				
<p>The county solicited proposals to provide inmate banking and commissary services. The county received four responses as shown on the attached tabulation sheet. An evaluation committee comprised of Patricia Bythwood, public protection operations manager, Marilyn Chandler Ford, corrections director, Donna dePeyster, deputy finance director, Mark Swanson, beach services director, and Kim Westberry, information technology director, reviewed the responses.</p> <p>The committee recommends award to and approval of a contract for three (3) years with two (2) subsequent one (1) year renewals upon mutual agreement and council approval to Aramark Correctional Services, LLC, Philadelphia, Pennsylvania.</p> <p>A copy of the contract without exhibits is attached. A copy of the contract and related exhibits are available for review in the purchasing and contracts division.</p>				

Recommended Motion: Approval.

COUNTY OF VOLUSIA, FL
Recommendation of Award



ALL PROPOSALS ACCEPTED BY THE COUNTY OF VOLUSIA ARE SUBJECT TO THE COUNTY'S TERMS AND CONDITIONS. ANY AND ALL ADDITIONAL TERMS AND CONDITIONS SUBMITTED BY RESPONDENTS MAY BE REJECTED AND MAY HAVE NO FORCE AND EFFECT. SOLICITATION BID DOCUMENTS FROM THE VENDORS LISTED HEREIN ARE THE ONLY BIDS RECEIVED TIMELY AS OF THE CLOSING DATE AND TIME. ALL OTHER PROPOSALS SUBMITTED IN RESPONSE TO THIS SOLICITATION, IF ANY, IS HEREBY REJECTED AS LATE.

RFP NUMBER: 14-P-61RF

RFP TITLE: **Integrated Banking & Commissary for Corrections**

CLOSING DATE/TIME: August 19, 2014 at 3:00 p.m.

<p style="text-align: center;">Response #1</p> <p style="text-align: center;"> Aramark Corporation 2300 Warrenville Road Downers Grove, IL 60515 Derek Harless P: 904-703-2274 harless-derek@aramark.com </p>	<p style="text-align: center;">Response #2</p> <p style="text-align: center;"> Keefe Commissary Network, LLC 1371 Tradeport Drive Jacksonville, FL 32218 William Bosco P: 904-741-6776 bbosco@keefegroup.com </p>
<p style="text-align: center;">Response #3</p> <p style="text-align: center;"> McDaniel Supply Company 1275 East Cherry Street Jesup, GA 31546 Jerry McDaniel P: 912-427-9022 jerryd@mcdanielsupplyco.net </p>	<p style="text-align: center;">Response #4</p> <p style="text-align: center;"> Trinity Services Group, Inc. 477 Commerce Blvd. Oldsmar, FL 34677 David Miller P: 877-277-5452 Dave.miller@trinityservicesgroup.com </p>

Award Recommendation: Aramark Corporation
 County Council Date: TBD



**AGREEMENT FOR
INTEGRATED BANKING AND COMMISSARY SERVICES**

CONTRACT NUMBER 14-P-61RF

Between

COUNTY OF VOLUSIA

And

ARAMARK CORRECTIONAL SERVICES, LLC

1101 MARKET STREET

PHILADELPHIA, PENNSYLVANIA 19107

County of Volusia
Purchasing & Contracts Division
123 West Indiana Avenue, Suite 302
DeLand, Florida 32720-4608
386-736-5935

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**AGREEMENT FOR COUNTY OF VOLUSIA INTEGRATED BANKING AND COMMISSARY
FOR CORRECTIONS**

This Agreement made and entered by and between **Aramark Correctional Services, LLC**, duly authorized to conduct business in the State of Florida, whose principal place of business is located at 1101 Market Street, Philadelphia, PA 19107 (hereinafter the "**Contractor**"); and **County of Volusia**, a body corporate and politic and a subdivision of the State of Florida, whose address is County of Volusia, 123 West Indiana Avenue, DeLand, FL 32720 (hereinafter "**County**").

RECITALS

WHEREAS, this Agreement is the result of the solicitation process for the County's Request for Proposal for a County of Volusia Integrated Banking and Commissary for Corrections, RFP 14-P-61RF; and

WHEREAS, the County desires to implement a County of Volusia Integrated Banking and Commissary for Corrections as a County Hosted Server Solution; and

WHEREAS, the Contractor represented that it can provide the County of Volusia Integrated Banking and Commissary for Corrections as provided in this Agreement, the Statement of Work, and Scope of Services.

NOW, THEREFORE, in consideration of the foregoing recitals which are true, material, and incorporated herein by reference, and other specific consideration set forth in this Agreement, the receipt and sufficiency of which is acknowledged by the Contractor and County, the parties agree and stipulate as follows:

1 DEFINITIONS

- 1.1 For this Agreement and any incorporated SOW (as described in Article 4 - Scope of Services below or future statement of work), certain terms, phrases, words and their respective derivations shall have the meaning set forth and defined therein and shall be applicable in both. Definition of terms in the Agreement shall first be governed by this Agreement, second by modifications, amendments and change orders, and third by the incorporated SOW (**Exhibit A**). In the event of any conflict among the foregoing, the conflict shall be resolved in the order of priority set forth in the preceding sentence. If there is no applicable definition as described above, the terms, phrases, and words, and their respective derivations when used in this Agreement and the Scope of Service, shall have the meanings ascribed to them in Webster's New Collegiate Dictionary (G & C Merriam Co., 11th ed., July 2003, or any subsequent edition).
- 1.2 **Acceptance:** A signed document that may be transmitted via email, indicating that a Deliverable meets the Acceptance Criteria specified in the Agreement, or deemed acceptance.
- 1.3 **Acceptance Criteria:** Measure by which a Deliverable or set of Deliverables shall be approved.
- 1.4 **Agreement:** This agreement or Contract, including its articles, exhibits, and

attachments.

- 1.5 **Amendment:** An amendment to this Agreement in writing by the County, approved by the Director of Purchasing and Contracts, and signed by the County authorizing an addition, deletion, or revision in the Scope of Services, or an adjustment in this Agreement or a statement of work, Agreement price, or extension of the Agreement.
- 1.6 **Change Order:** A written order to the Contractor signed by the County authorizing an addition, deletion, or revision in the SOW, or an adjustment in the Agreement price or time, without change to any other terms or conditions of the Agreement.
- 1.7 **Commission:** A percentage of the net commissary sales. Net commissary sales are gross sales less non-commissioned sales (stamps, pre-stamped post cards and envelopes, phone time, and sales tax).
- 1.8 **Completion Date:** The date that the County or its designated representative approved and accepted all Work or Services for a Scope of Work in this Agreement.
- 1.9 **Confidential Information:** Confidential Information shall be defined as stated in Article 11 – Confidential Information.
- 1.10 **Contract Administrator:** The Director of Purchasing and Contracts or his/her designee responsible for addressing any concerns within this Agreement.
- 1.11 **Contract:** This Agreement, including its articles, exhibits, and attachments.
- 1.12 **Contractor:** The person or entity qualified to perform work under this Agreement.
- 1.13 **County:** The County of Volusia, Florida, and shall be synonymous with the term "County."
- 1.14 **County Data:** The information inputted by the County into databases of the Licensed Software regardless of the form that it is stored, whether electronically or in paper format. Notwithstanding any other provision in this Agreement, any reports or data (including such data or reports associated a Deliverable) generated by the Licensed Software shall be solely owned by the County and free of any restrictions or encumbrances.
- 1.15 **County Hosted Solution:** A solution wherein the County shall house the application on Contractor-provided servers and hardware that meets or exceeds the County's hardware & software warranty requirements. For this solution, the County provides the server operational support limited to electrical and HVAC. The Contractor is responsible for: installation, maintenance, repair, and replacement of hardware; and, management of backups, database tuning, patches, diagnosis, recovery, and version upgrades as needed. The Contractor works directly with the County on application modifications, diagnosis, recovery, hardware repair, customization, configuration, and how-to questions.
- 1.16 **County Work Day:** Monday through Friday from 8:00 a.m. to 5:00 p.m. of each week, excluding County Holidays.
- 1.17 **Day:** Each calendar day or accumulation of calendar days.

- 1.18 **Defect(s):** An incorrect implementation or failure to conform to the Documentation or the System Acceptance Criteria resulting in inadequacy, malfunction, or imperfection.
- 1.19 **Deliverable:** The result(s) or end products or services of a Project or SOW that meet the defined specifications, warranties, and functional parameters articulated in a SOW for this Agreement.
- 1.20 **Documentation:** Such documentation as delivered by Contractor to County and accepted by County prior to System Acceptance of the System relating to the use, function and Support of the System. Such Documentation shall be provided in softcopy and shall include, but not be limited to, the SOW and the Final Acceptance Criteria as set forth in the Agreement. For purposes hereof, Documentation includes the Training/User Guide and other written or electronic material as made generally available by Contractor to its customers relating to the use, function and Support of the System, as may be amended from time to time by Contractor.
- 1.21 **Effective Date:** The date that this Agreement is fully executed by Contractor and the County.
- 1.22 **Enhancements:** Modifications or improvements made by Contractor to the Licensed Software or Hardware which relate to operating performance but also change the basic function(s) of the Licensed Software or Hardware.
- 1.23 **Fees:** The applicable license, implementation, conversion, migration, customization, consulting, maintenance, support and services fees payable pursuant to this Agreement.
- 1.24 **Final System Acceptance:** Shall take place after all Deliverables of the SOW have been accepted.
- 1.25 **Force Majeure Event:** An event described in Section 15.14 hereof.
- 1.26 **Hardware:** The physical components or equipment which make up a computer system including the programs that control the operations of the computer and support the Software.
- 1.27 **Implementation Fee:** The fee for the Services provided in relation to the services, and implementation or installation of the System and its component parts, as further described in this Agreement and **Exhibit B – Price Schedule (Exhibit B)** but not limited to services such as including on-site training (e.g., train-the-trainer).
- 1.28 **Interface:** A boundary across which two independent systems meet and act on, or communicate with each other.
- 1.29 **Key Personnel:** Contractor's personnel, designated by Contractor, who are responsible for Contractor's day-to-day Project operations as described in the SOW.
- 1.30 **Licensed Software:** Contractor's licensed and other proprietary Software developed by Contractor and required to operate the System, to be provided by Contractor as part of its Services and pursuant to SOW and **Exhibit A** of this Agreement which includes each computer program or module, application and patent which makes up Contractor's Licensed Software and each copy, translation, Update, Upgrade and release, together with any materials related thereto normally provided

by Contractor as part of its Services under this Agreement. Contractor's Licensed Software shall be considered Confidential Information to the extent permitted and subject to Chapter 119, F. S. (Florida Public Records Law).

- 1.31 **Licensed Technology:** Licensed Software and Documentation.
- 1.32 **Maintenance:** Services, including support services, or any activity performed by the Contractor or its subcontractor intended to eliminate faults, to improve or to keep the System in satisfactory working condition, including tests, measurements, adjustments, and changes, modifications, enhancements or repairs, upgrades, and updates including those set forth in the SOW and **Exhibit A** of this Agreement.
- 1.33 **Milestone:** A significant event, task, or deliverable that occurs during the project, not all of which are, nor shall be, designated on the milestone payment schedule.
- 1.34 **Module:** A component of a system.
- 1.35 **Net Sales:** Total gross commissary sales less any non-commissionable sales.
- 1.36 **Non-Commissionable Sales:** Tobacco products, stamps, pre-stamped envelopes, pre-paid telephone calling cards, telephone debit cards or any telephone sales, taxes, and authorized returns.
- 1.37 **Plug-in:** Plug-in is a computer program that interacts with a web browser to provide a certain, usually very specific, function "on demand".
- 1.38 **Project:** The project that is described in **Exhibit A** of this Agreement.
- 1.39 **Project Manager:** An employee of a party who is assigned to the Project and is responsible for the day-to-day administration and coordination of the Project for the party.
- 1.40 **Proposal:** The document submitted by the Contractor in response to a formal solicitation (RFP No. 14-P-61RF) used to determine if the Contractor is highly qualified.
- 1.41 **Real Time:** The actual time during which operations are taking place.
- 1.42 **Recurring Fees:** The annual fees for Maintenance and Support Services that commence after the expiration of the Initial Warranty period and that shall continue to be provided under this Agreement for so long as the County pays the Recurring Fee.
- 1.43 **Release:** All modifications to the software including new functionality, bug fixes, patches, and service pack releases.
- 1.44 **Services:** Those services defined in a SOW to be performed by the Contractor pursuant to this Agreement and its attached exhibits, including: the work, duties and obligations to be carried out and performed by Contractor under the Agreement and pursuant to **Exhibits A – D**, attached hereto and made a part of this Agreement. Without limiting the foregoing, the Services to be performed by Contractor fall into nine (9) general categories: (i) System implementation, (ii) making the System available to County over the Internet as a Service, (iii) Software programming or modification/ configuration of the Licensed Software to meet County's needs as reflected in this Agreement, (iv) project management, (v) programming agreed upon

- interfaces, (vi) conversion and/or migration of County's current data, (vii) training of County staff, (viii) delivery of commissary goods and services, and (ix) Software maintenance.
- 1.45 **SFTP: (Secure File Transfer Protocol):** The protocol for exchanging files over the Internet in an encrypted format. SFTP is most commonly used to securely download a file from a server using the Internet or to securely upload a file to a server using the Internet.
 - 1.46 **Software:** The Contractor Licensed Software, software Modules, User Licenses, Web Licenses, and/or Interfaces (collectively Licensed Material) identified in **Exhibit A** and including the following:
 - 1.46.1 Any and all reports and supporting materials provided by the Contractor;
 - 1.46.2 Any additional Licensed Material subsequently purchased by the County; and,
 - 1.46.3 Any Updates and Upgrades which Contractor makes available to the County during the Maintenance & Support Period, or under any subsequent Contractor software maintenance agreement.
 - 1.47 **Specification:** Technical and/or functional details that provide information on how a requirement shall be addressed by or within a System.
 - 1.48 **State:** State of Florida.
 - 1.49 **Statement of Work and Scope of Services (SOW):** The services/work, herein defined in this Agreement under a statement of work or scope of services (e.g., **Exhibit A**) that is agreed to by the parties in writing, which includes responsibility for performing and complying with all incidental matters pertaining thereto.
 - 1.50 **Subcontractor:** A person other than a materialman or laborer who enters into an Agreement with a Contractor for the performance of any part of the basic agreement.
 - 1.51 **Sub-subcontractor:** A person other than a materialman or laborer who enters into an Agreement with a subcontractor for the performance of any part of such subcontractor's Agreement.
 - 1.52 **Support:** The type of services identified in the Contractor's Proposal, SOW and **Exhibits A – D**.
 - 1.53 **System:** The system described in **Exhibits A – D** operated and managed by Contractor's licensed software including Upgrades, Updates and any modifications made by Contractor after the Effective Date of this Agreement.
 - 1.54 **System Acceptance:** The System, or functional components thereof, as applicable, that have met the Final Acceptance Criteria.
 - 1.55 **System Acceptance Criteria:** The criteria identified in **Exhibit A** that shall define the objectives by which the System and its functional components shall be tested.
 - 1.56 **System Administrator:** The individual designated by the County to serve as key points of contact for all requests for service and/or problem reporting for County.

- 1.57 **Total Gross Commissary Sales:** All commissary sales before any deductions including non-commissionable sales and refunds
- 1.58 **Training Materials:** Contractor's education and training materials which shall be provided to the County as part of the Deliverables.
- 1.59 **Turnkey Solution:** A complete vendor provided solution that is supplied, installed, and purchased in a condition ready for immediate use, occupation, or operation within a specified time frame.
- 1.60 **Update(s):** The periodic release(s) of the Licensed Software that may contain fixes or incremental enhancements to the Licensed Software and are included in Maintenance and Support Services.
- 1.61 **Upgrade(s):** The periodic releases of the Licensed Software that contain significant enhancements that may include changes necessary to accommodate changes in the capability and functionality.
- 1.62 **Warranty:** The warranty identified in the SOW that are covered by the maximum not-to-exceed compensation for the life of the Agreement.
- 1.63 **Web Based:** Web based is access to the proposed solution through Microsoft's Internet Explorer web browser with no client software, other than Plug-ins.
- 1.64 **Work:** Any and all obligations, Services, duties and responsibilities necessary to the successful completion of the Project assigned to or undertaken by Contractor under the Agreement, including the furnishing of all labor, materials, equipment and other incident.

2 EXHIBITS

- 2.1 The exhibits listed below are incorporated into and made a part of this Agreement.
 - 2.1.1 Exhibit A Statement of Work and Scope of Services (SOW)
 - 2.1.1.2 Exhibit A-1.2 - Commissary and Banking Policies and Procedures
 - 2.1.1.3 Exhibit A-1.3 - Account Reconciliation Input File Layout
 - 2.1.1.4 Exhibit A-1.4 - Technical Requirements Matrix
 - 2.1.1.5 Exhibit A-1.5 - Technical Requirements Form
 - 2.1.1.6 Exhibit A-1.6 - Server Environment Worksheet
 - 2.1.2 Exhibit B Price Schedule
 - 2.1.3 Exhibit C County Computing Security Procedures (Updated: October 2011)
 - 2.1.4 Exhibit D County Technical Infrastructure Standards

3 ORDER OF PRECEDENCE

- 3.1 If Contractor finds a conflict, error or discrepancy in the Agreement, it shall call it to the County Project Manager's attention, in writing and request the County Project Manager's interpretation and direction before proceeding with the Work affected thereby. Such notice shall be provided by the Contractor to the County's Project Manager in a timely fashion so as not to cause additional costs due to delay.

- 3.1.1 In the event of any conflicts or inconsistencies between provisions of the exhibits or attachments to this Agreement, the following order of precedence shall govern:
- 3.1.1.1 First: The terms and conditions in the main body of this Agreement.
 - 3.1.1.2 Second: Exhibit A – SOW
 - 3.1.1.3 Third: Exhibit B – Price Schedule
 - 3.1.1.4 Forth: Exhibit C – County Computing Security Procedures 2011
 - 3.1.1.4.1 Contractor agrees to County Computing Security Procedures 2011 by execution of this Agreement.
 - 3.1.1.5 Fifth: Exhibit D – County Technical Infrastructure Standards
- 3.1.2 In the event of conflicts or inconsistencies between the System Acceptance Criteria, and the Agreement, the System Acceptance Criteria established by the County and Contractor during the performance of this Agreement shall be controlling.

4 SCOPE OF SERVICES

- 4.1 Contractor shall perform all Work or Services identified in this Agreement and its attached exhibits, attached hereto and made a part of this Agreement.
- 4.2 During the term of this Agreement, Contractor shall fully cooperate with County to enable the County to comply with applicable Florida and federal statutes that prescribe requirements for the security, distribution and release, filing, submission and reporting of information relating to the Work or Services and provided to local, state, and federal agencies. County shall notify Contractor in writing of any additional requirements pursuant to change order (see Section 5.6 of this Agreement.) Without limiting the foregoing, Contractor shall enable the County to comply with the requirements of the Florida and Federal statutes prescribing requirements for the security, distribution and release, filing, submission and reporting of information.
- 4.3 **License.** Contractor, upon the payment of the Contractor License Fee grants County, its agencies and third party users a perpetual, nonexclusive site license to access or use Contractor's current generally-released version of the Licensed Software (including applications, equipment and computer networks) and any updates thereto covered through maintenance services to access and use the System that shall be serviced and maintained by Contractor under this Agreement. Such access will be obtained via Internet connection, and shall be subject to security restrictions designed to limit access to County and its designated employees and representatives. No license to install the Licensed Software is granted, intended, or implied by this Agreement.

- 4.3.1 Contractor gives County its assurance that all Work or Services performed under this Agreement shall be performed in a competent and workmanlike manner and in accordance with the specifications and requirements of the Agreement Documents and of any inspections (if applicable), tests (if applicable) or approvals required under this Agreement.
- 4.3.2 County shall only use Licensed Software for internal business requirements, or for performing administrative functions pertaining thereto, and for no other purpose. County, and its employees or agents, are strictly prohibited from using Licensed Software for any other purpose, including, without limitation, the provision of management or other services to other non-County facilities, whether as a consultant, management firm, value added reseller, or in any capacity whatsoever. In the event County breaches the terms of this sub-paragraph, Contractor may terminate this Agreement and pursue any remedies available to it in law and equity.
- 4.3.3 This license includes any persons or entities which County may contract to operate the System on behalf of County, to the extent such are not competitors of Contractor (and are subject to the licensing and confidentiality restrictions herein). County shall provide advance written notice of the use of such consultants or contracted persons or entities. Contractor shall determine if such a person or entity is a competitor within five (5) days of Contractor's receipt of such notice from County, provided Contractor shall not unreasonably withhold approval. To the extent a sublicense is necessary in connection with making any component of the System available to County, Contractor also shall provide for sublicenses to County to enable County to fully utilize the System in accordance with this Agreement.
- 4.4 **Training.** Contractor will provide all necessary training for the Software as defined in **Exhibit A**.
- 4.5 **Services.** The Contractor shall provide the services as defined and in accordance with the SOW. Services are provided for the specified users as provided by County. Any sharing of Login IDs by County personnel or other County representatives is specifically prohibited under this Agreement unless it is in accordance with **Exhibit C - County Computing Security Procedures 2011 (Updated: October 2011) (Exhibit C)** to "ensure that access to Computing Resources can be gained in the event of the loss of an employee. This may require managers to keep employee passwords stored in a safe and secure holding area."
- 4.5.1 All hardware, software, communications and other products related to this Agreement located at the County site are the sole property of Contractor, and the Contractor shall maintain right, title or interest in these products by virtue of this Agreement other than the non-exclusive right of use granted herein.
- 4.5.2 Any software modifications or enhancements performed by Contractor specifically on behalf of the County, whether paid for by the County or not, shall remain the property of Contractor and may, at Contractor sole

discretion, be incorporated into or withheld from the software generally made available to Contractor's other clients. Any Software modifications or enhancements performed by Contractor specifically on behalf of the County, whether paid for by the County or not will be carried forward into new releases and versions.

4.6 **Maintenance.** Contractor agrees to provide Maintenance and Support Services identified in the Agreement, and Exhibits, including maintenance and support services by Contractor to the County regarding the licenses for the Contractor Software Modules, User Licenses, Web Licenses, and/or Interfaces (collectively Licensed Material) purchased by the County hereunder.

4.6.1 Unless otherwise agreed by the parties, Contractor support and maintenance will be provided in compliance with the SOW, as of the last date of this Agreement.

4.7 Contractor represents that all persons delivering the Services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and Services set forth in the SOW, and to provide and perform such Services to County's satisfaction for the agreed compensation. Contractor shall render all Services under this Agreement in a professional manner. Contractor agrees to perform all Work or Services in the most expeditious and economical manner consistent with the standard of care applicable to a contractor with the degree of skills and diligence normally employed by a professional in its field, performing the same or similar services. Contractor shall perform its duties, obligations, and Work under this Agreement in a skillful and competent and workmanlike manner.

4.8 **Alterations by the County.** If the County arranges to modify data in the database by means other than technology provided by Contractor, any troubleshooting, maintenance and support work requested by the County and resulting from such modifications, will be chargeable to the County at Contractor's standard service rates.

4.9 **Warranty.** The System for the term of this Agreement and any renewals thereto is warranted by Contractor to provide the functions, features and capabilities specified and described in the Agreement. Contractor further warrants and represents that the System and its software components shall operate together as a whole to perform the functions in the manner specified and delineated in the Agreement; and that no other County hardware except hardware provided by County under this Agreement or Licensed Software is required to be purchased or installed by County to host the System. County shall be responsible for acquiring and maintaining its own personal computers necessary to access the System. Contractor expressly warrants that each module of the System shall be free from reproducible Defects that cause the System to fail to conform to the operational and performance specifications as set forth in the Agreement. Contractor makes the foregoing warranty for the System for a period of one (1) year after System Acceptance by County and under any maintenance and support agreement covered in this Agreement or incorporated into this Agreement for so long as County pay the annual Recurring Fee.

Contractor does not warrant that the operation of Licensed Software and its updates will be uninterrupted or error free.

ANY WARRANTIES PROVIDED HEREUNDER SHALL BE VOID IF FAILURE OF THE LICENSED SOFTWARE HAS RESULTED FROM AN ACT OF GOD OR ABUSE OR MISUSE BY THE COUNTY.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, THERE ARE NO OTHER WARRANTIES EXPRESSED OR IMPLIED. Contractor DISCLAIMS ANY IMPLIED OR OTHER WARRANTIES NOT OTHERWISE EXPRESSED IN THIS AGREEMENT.

- 4.10 Contractor also warrants that the System is free from viruses and/or malicious software which would prevent the System from being operated as described and set forth in the Agreement Documents.
- 4.11 **Ownership of County Data.** County is the owner of its data, data compilations and reports or compilations of its data generated from use of the Licensed Software ("County Data"). Notwithstanding anything to the contrary contained in this Agreement, the County shall have the right to use the Contractor's Licensed Software to access and have unfettered use of such data, reports, compilations, or information derived from or resulting from the use of the Licensed Software and/or to generate reports from such data, files or information. Contractor acknowledges and agrees that the County is the owner and custodian of said data, compilations and information whether or not such is electronically retained and regardless of the retention media and that the use of the Licensed Software in relation to such information or data does not in any way restrict County in the County's rights of disclosure of its data and information.
- 4.12 **Data Backup.** Contractor will work with the County to establish data backup schedule and scope to support successful recovery from hardware or software failures. Contractor will be responsible for execution, monitoring, and storage of backups. Contractor will be responsible for working with the County in the restoration of any backups.
- 4.13 **Transition Services.** If this Agreement expires or is earlier terminated, the Contractor shall provide Transition Support Services to the County and develop a transition plan (the "Transition Plan") in the form of an Amendment or Change Order to this Agreement to be signed by the County and the Contractor. Contractor's time will be limited to Support Services needed to produce required materials and to respond to questions regarding the System to be transitioned to another Contractor. Examples of Support Services include but are not limited to delivering via electronic media, accurate copies of any data that is requested and necessary to perform the services. The Contractor shall cooperate with County to develop and implement an orderly transition plan and Contractor shall continue to provide services to County until the Transition Plan is completed to the satisfaction of the County. Materials include but are not limited to assistance including all documentation so Contractor can provide the Transition Support Services to County or another Contractor. However, in no event shall Contractor be obligated to disclose any proprietary information or trade secrets to any competitor of Contractor.

- 4.13.1 If this Agreement is earlier terminated by the Contractor, other than for default by the County, then Contractor shall provide Transition Support Services at no cost to the County. If this Agreement expires or is earlier terminated by the County, then Contractor shall provide Transition Support Services upon terms mutually agreed upon by the parties.
- 4.14 **Ownership of County Intellectual Property.** Contractor agrees that all domain names registrations, SSL certificates, personal name SLDs, e-mail addresses, other registrations, and trade names or trademarks that County owns prior to or acquires under this Agreement, whether purchased by the County or by Contractor for the specific benefit of the County under this Agreement shall be owned by the County with all rights of title, interest, and possession. As such, Contractor agrees that County shall have immediate and unfettered access to and the use and benefit of County's domain name registrations, SSL certificates, Personal name SLDs, and trade names or trademarks at any time, including upon the termination of this Agreement by either party. Contractor further agrees that County's domain names, SSL certificates, personal name SLDs, trade names or trademarks shall not be used by Contractor or its subcontractors unlawfully or allow unauthorized access to County's data in County systems or networks.
- 4.15 **Data Extraction.** Upon any termination or expiration of this Agreement, Contractor agrees to deliver or allow access immediately without delay or interruption of the Services, to the County, at County's request, County data in a data structure and schema readable by County such as SQL, including data necessary for transitioning purposes.
- 4.16 **Separation of Data.** If required under this Agreement or any subsequent statement of work or scope of services, Contractor agrees that data collected or created pursuant to this Agreement shall be separated or segregated from other records or other Contractor client or business data holdings such that the data is maintained by logical separation of data (e.g., record or user ID); or by a combination of both physical and logical separation mediums. Any database established for the County must be logically independent from all other Contractor client databases, directly or indirectly, and located in the United States. All aspects of data processing must be conducted in the United States.
- 4.17 Prior to the termination of the Agreement, Contractor's technical staff familiar with the Contractor's applications and the data structure shall work with County assigned staff in the creation of data conversion and/or migration maps or equivalent to be used to convert the data from the Contractor's application databases to the application database selected by County as a replacement. Such assistance shall be provided at Contractor's hourly rates (unless otherwise described in the Agreement), provided that the foregoing shall not require Contractor to disclose any confidential information, such as database schema.
- 4.17.1 Upon notification to Contractor that County is ready to convert to a replacement system, Contractor shall transfer County's data in a format as may be mutually agreed to by County and Contractor.
- 4.18 **Documentation:** Contractor agrees to provide County with all Documentation in electronic format, and hereby grants County permission to copy or reproduce, in

whatever form, electronic, machine readable, hard copy or otherwise, any documentation supplied by it to County, including material related to subsequent Releases for County internal use only.

- 4.19 **Revised Documentation:** Contractor agrees to provide County with revised, modified, and/or updated documentation that reflects the enhancements/changes/modifications to the System.
- 4.20 All Deliverables, excluding County Data as defined in Section 1.14, including the Licensed Software are proprietary to Contractor. Title to, and ownership of, Deliverables, excluding County Data as defined in Section 1.14, including but not limited to the Licensed Software, and related documentation shall at all times remain with Contractor. Title to third party software used in connection with the Deliverables, if any, resides with the vendor of each software package.

5 COMPENSATION AND METHOD OF PAYMENT

- 5.1 Contractor agrees to provide the complete turnkey System with no cost to the County.
 - 5.1.1 Contractor shall be responsible for any and all costs associated with the integration and implementation required to obtain functionality as specified in this Contract with the current jail management and inmate phone systems.
- 5.2 As consideration for permission to engage in commerce with the County as set forth in this Agreement, Contractor agrees to pay a commission rate of forty-six percent (46%) on Net Sales of all commissary orders as outlined in Exhibit B, with a Minimum Annual Guaranteed Commission (MAG) to the County in the amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000).
 - 5.2.1 **COMMISSION GUARANTEE:** Contractor guarantees that the annual amount of commission paid to the County for both Commissary and iCare sales shall be at least equal to (\$500,000), the "Minimum Annual Guaranteed Commission". At the annual anniversary of the executed contract, the County shall conduct an audit of the commissions actually paid during the preceding contract year. The parties shall reconcile the amount of commission actually paid to the County during the immediately preceding contract year with the Minimum Annual Guaranteed Commission owed to the County. In the event that the aggregate amount of commissions paid to the County during the immediately preceding contract year was less than the Minimum Annual Guaranteed Commission, Contractor shall, within ninety (90) days after the conclusion of the contract year, deliver to the County payment equal to the difference between the Minimum Annual Guaranteed Commission and the actual commissions received by the County during the immediately preceding contract year.
 - 5.2.2 The Minimum Annual Guaranteed Commission is contingent upon (a) Contractor being the exclusive commissary service provider to the Facilities and (b) the installation, activation and implementation of Contractor's iCare and Retail Promotions programs as agreed. "Retail

Promotion” includes certain discounts, promotional items, holiday promotions, and new item introductions to inmates. In the event that such Contractor programs have not been fully activated and implemented until after the commencement of the initial contract term, the Minimum Annual Guaranteed Commission will be prorated to account for any periods during which such Contractor programs were not fully activated and implemented. This guarantee is based on conditions existing as of the time of this proposal. In the event that there is a change in the scope of the services to be provided by Contractor, including, without limitation, the average daily population (“ADP”) for a calendar month falling below one thousand three hundred fifteen (1,315) inmates, a decrease in inmate spending limits, the imposition of fees on spending (including, but not limited to, event charges such as restitution and subsistence fees), the removal of certain facilities from the scope of services; or unforeseen changes in external market conditions beyond Contractor’s control, including, without limitation, efforts to organize labor, increases in food, fuel, equipment, utilities and supply costs, Federal, State and local sales, and other taxes and other operation costs, a change in Federal, State and local standards, requirements recommendations, and regulations, changes in phone service providers or a change in the way phone service is sold to inmates, or other unforeseen external market conditions outside Contractor’s control, the commission rate and/or Minimum Annual Guaranteed Commission shall be renegotiated by the parties. The Contractor shall price all items for sale to inmates in accordance with operating standards, not to exceed fair market value in the County, pursuant to Florida Model Jail Standards (Effective: 1/1/2015) (https://www.flsheriffs.org/our_program/florida-model-jail-standards/).

- 5.2.3 Contractor shall provide as compensation to the County a Commission in an amount equal to forty-six percent (46%) of Net Sales. The Commission shall be calculated on each invoice and deducted from the amount paid to Contractor. Each time the Contractor delivers commissary items to the facility, the Contractor shall invoice the County. The invoice shall reflect the commissary order date and the delivery date. The invoice shall also include Total Gross Commissary Sales less any Non-Commissionable Sales detailed as a reduction on the invoice. The invoice shall calculate the Net sales and the Commission calculation. The invoice shall also include any refunds providing the breakdown of the return, both the Contractors portion and the County’s commission portion.
- 5.3 The Contractor shall submit an invoice that shall detail and total the amount of commissary sales for each delivery. This amount shall balance with the VCDC total. A check will be issued by the County for the agreed upon total.
- 5.4 **Payment Address.** All payments due under this Agreement shall be delivered to the County by electronic funds transfer or by check made payable to THE COUNTY OF VOLUSIA at the following address:

County of Volusia
123 West Indiana Ave, Rm 302

DeLand, FL 32720

5.5 The compensation set forth in Section 5 include any and all of Contractor's overhead, operating costs, outlays, profit, and associated out-of-pocket costs including, but not limited to photocopying, long distance telephone, special mailings and the like. Contractor shall also bear all of its own expenses arising from its performance of the obligations under this Agreement and its Exhibits including (without limitation) expenses for facilities, work spaces, utilities, management, clerical and reproduction services, supplies, and the like.

5.5.1 The above mentioned compensation includes travel, as applicable, and training material expenses as referenced in **Exhibit B**. All travel will be subject to the Volusia County Travel and Training Policy as set forth in the County's web site; <http://www.volusia.org/services/financial-and-administrative-services/purchasing/>

MANNER OF PAYMENT: Contractor shall invoice the County for commissary services within seven (7) days of delivery, for the balance due to the contractor after all deductions, commission calculations and refund credits. Invoices shall reflect total commissionable sales, non-commissionable sales by category, sales tax and order amount, commission due to County, and refund details. If there is a refund on a commissionable item, the Contractor must provide both the amount the Contractor is refunding to the inmate along with the commission portion. Invoices shall be sent to:

Volusia County Division
1300 Red John Drive
Daytona Beach, Florida 32120

Payment of any invoices issued by the Contractor to the County shall be governed by the applicable provisions of Part VII of Chapter 218, Florida Statutes (*i.e.*, the Local Government Prompt Payment Act. Payment shall be made by check payable to Aramark Correctional Services, LLC. Such payment shall be sent to:

Aramark Correctional Services, LLC
P.O. Box 406019
Atlanta, Georgia 30384-6019

5.5.2 Contractor shall provide the County with a comprehensive monthly summary of Gross Sales, non-commissionable sales, sales tax, adjustments, services, and commissions paid to County. This summary shall be forwarded to the County Project Manager or his designee each month.

5.6 **Amendment/Change Orders.** Either party may propose changes to the Scope of Services or time schedule of the Services under the Statement of Work. Requests for changes shall be submitted to and approved by the other party in writing **before commencement of any additional Work or Services**, for consideration of feasibility and the likely effect on the cost and schedule for performance of the

Services. The parties shall mutually agree in writing upon any proposed changes, including resulting equitable adjustments to costs and schedules for the performance of the Services. The agreed changes shall be documented in one or more Amendments or Change Orders. If despite good faith negotiations the parties are unable to agree to the terms the parties shall follow the dispute resolution process provided under Article 12 – Dispute Resolution. Performance of Work by Contractor outside the originally anticipated level of effort without an approved and fully executed Change Order by County and Contractor shall be at Contractor's sole risk and County shall not be liable for such work unless otherwise agreed to by the County in writing. The County, without invalidating this Agreement, may order extra work or make changes by altering, adding to, or deducting from the work, the Agreement sum being adjusted accordingly if agreed upon in writing by both parties.

- 5.6.1 **Additions, Deletions, or Revisions by County.** Upon receipt of a fully executed Change Order or Amendment, Contractor shall proceed with the work involved. All such work shall be executed under the conditions of the original Agreement except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change. If any change order causes an increase or decrease in the Agreement price or an extension or shortening of the Agreement time, both parties must agree to such change in writing. The Agreement price and time may be changed only through a Change Order or Amendment. All change orders and amendments must be authorized by the appropriate County official or governing body having the requisite purchasing authority under the County's Code of Ordinances and Purchasing Policies and Procedures to obligate the County for the additional cumulative financial obligation, if any, associated with such Change Order or Amendment.
- 5.6.2 **Late Fee.** Failure of the Contractor to remit any monthly Commission payment within thirty (30) days of the due date shall result in a late fee equal to the lesser of one and one half percent (1.5%) per month of the unpaid balance or the maximum amount allowed by law until such amount is paid in full. The provisions of this section shall survive termination of this Agreement.
- 5.6.3 The County may withhold payment of any specific invoiced charges that it disputes in good faith and pay all undisputed charges on the invoice.
- 5.6.4 **Taxes.** County is a tax exempt entity and shall not be charged or invoiced for the payment of taxes for Work or Services performed under this Contract.
- 5.6.5 **Contractor's Continuing Obligations.** Contractor's obligation to perform Work or Services in accordance with the Contract shall be absolute. Neither approval of any progress nor final payment to Contractor nor documentation confirming acceptance of the Work or Services by the County, nor any payment by County to Contractor under the Contract nor any act of acceptance by the County nor any failure to do so, nor any correction of defective Work by County shall constitute an acceptance of Work or Services not in accordance with the Contract.
- 5.6.6 Contractor agrees that the System as a whole shall be inspected and tested

by County. Final System Acceptance shall be evidenced by (i) a written acknowledgement by the County Project Manager to Contractor that the System meets all of **Exhibit A**.

5.6.7 The parties acknowledge that **Exhibit A** may not delineate every detail and minor work task required to be performed by Contractor to complete its Services and provide the Deliverables and the System. If, during the course of the performance of the Services, Contractor and County determine that additional work should be performed to complete the System which, in Contractor's opinion, is outside the level of effort originally anticipated in **Exhibit A**, whether or not **Exhibit A** identifies the work items, Contractor shall notify the Contract Administrator in writing in a timely manner, with such notification being made pursuant to Section 5.6 and serving as Contractor's request for a Change Order. If Contractor proceeds with said work without notifying the Contract Administrator, said work shall be deemed to be within the original level of effort, whether or not specifically addressed in **Exhibit A**. Notice for such additional work that is inconsistent with Section 5.6 to the Contract Administrator by Contractor shall not constitute authorization or approval by County to perform said work. Accordingly, performance of work by Contractor outside the originally anticipated level of effort without prior written County approval is at Contractor's sole risk and County shall not be liable for payment for said additional work.

5.6.7.1 In the event a dispute between the Contract Administrator and Contractor arises over whether requested services constitute additional work or services or is outside the level of effort originally anticipated in **Exhibit A** and such dispute cannot be resolved by the Contract Administrator and Contractor, such dispute shall be submitted to the process prescribed in Article 12 – Dispute Resolution.

5.6.8 County's Purchasing and Contracts Director or such other proper authority pursuant to County policies and procedures shall have the authority to approve, award, and execute all documents or other instruments required to effectuate changes, modifications, or additional service contemplated by this Article 5, so long as the then cumulative financial obligation of County for such additional items does not exceed the Director of Purchasing and Contracts' authority under the County Code of Ordinances or policies and procedures. Any change, modification or additional service that causes the cumulative financial obligation of County for such additional items to exceed the Purchasing Director's authority under the Procurement Code shall be presented to the Volusia County Council for approval.

5.7 Contractor shall pay its Subcontractors and suppliers, within thirty (30) days following receipt of payment from the County for such subcontracted work or supplies. Contractor agrees that if it withholds an amount as retainage from such subcontractors or suppliers, that it shall release such retainage and pay same within thirty (30) days following receipt of payment of retained amounts from County.

5.8 Financial Arrangements:

- 5.8.1 **Product Orders:** Contractor shall process orders for products from inmates in accordance with the County's standard procedures. The County shall be responsible to collect, record and make disbursements from inmate commissary accounts for purchases of such products; provided, however, that Contractor shall have access to each inmate account solely for the purpose of verifying that there are sufficient funds in such account to cover a product order placed by such inmate, including but not limited to, any sales, use or other taxes related thereto.
- 5.8.2 **Billing and Prices:** Contractor and County shall determine the prices at which products shall be sold. If Contractor sustains increases in its costs, including but not limited to, increases in its product, labor or equipment or software-related costs, Contractor may increase its prices to recover such increased costs. Additionally, Contractor may, at its discretion perform a price audit to compare the prices at which it sells the products contemplated by this Agreement with the prices at which similar products are being sold in retail outlets in the surrounding community ("Comparable Retail Values"). In the event that any of Contractor's prices are below the Comparable Retail Values, the parties shall agree that such prices may be increased under this Agreement to reflect the Comparable Retail Values. The Contractor shall price all items for sale to inmates in accordance with operating standards, not to exceed fair market value in the County, pursuant to Florida Model Jail Standards (Effective: 1/1/2015).
- 5.8.3 For purposes of this Agreement, a sale shall be deemed made when a product ordered by an inmate is delivered to the County for subsequent delivery to the inmate, and the product is not returned. For purposes of this Agreement, all sales are final and no returns will be honored unless the inmate who ordered a product refuses delivery of such product at the time such product is delivered. If an inmate is released prior to product delivery and fails to claim such product within seventy-two (72) hours after release, the product shall become the property of the County.
- 5.8.4 **iCARE:** Contractor may implement its iCare program at the Facility. Contractor and County shall determine the prices at which iCare items shall be sold. No returns shall be accepted unless the inmate, who ordered a product, is released prior to such delivery. All sales shall be deemed made when an iCare item purchased is delivered to the inmate.

6 PERSONNEL OF CONTRACTOR

- 6.1 **Personnel:** The Contractor shall direct and supervise competent and qualified personnel and shall devote time and attention to the direction of the operation to insure performance of obligations and duties as set forth herein. The Contractor shall hire, compensate, supervise, and terminate members of its work force; and the Contractor shall direct and control the manner in which work is performed including conditions under which individuals will be assigned duties, how individuals will report,

and the hours individuals will perform.

- 6.2 **Wages and Benefits:** The Contractor shall be responsible for all income tax, social security and Medicare taxes, federal unemployment taxes, and any other withholdings from the company's employees' wages or salaries. Benefits, if any, for the Contractor's employees shall be the responsibility of the Contractor including, but not limited to, health and life insurance, retirement, liability/risk coverage, and workers' and unemployment compensation.
- 6.3 **Applicable Laws:** The Contractor shall be responsible for ensuring that its employees comply with all applicable laws and regulations and meet all federal, state and local requirements related to their employment and position.
- 6.4 **Right of Approval of Contractor's Staff:** Contractor agrees to provide the County with a current list of employees and subcontractors who will be providing products or services contemplated by this Agreement. The County shall, during the term of this Agreement, have the right to approve or disapprove the staff and subcontractors utilized by the Contractor in the provision of the services detailed in this Agreement. If the County disapproves any staff or subcontractor of the Contractor, the Contractor shall provide replacement satisfactory to the County in a timely manner and at no additional cost to the County. The Contractor's responsibility to provide staffing shall not be relieved due to the removal of an unacceptable employee. Contractor shall be responsible for the provision of temporary staffing for unfilled positions. The day-to-day supervision and control of the Contractor's employees or others working on behalf of the Contractor are solely the responsibility of the Contractor.
- 6.5 **Nondiscrimination, Equal Employment Opportunity:** Contractor agrees that it shall not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability. This provision shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships.
- 6.6 **Americans with Disabilities Act:** Contractor shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. Both parties shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any Services funded by County, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. Contractor shall have no financial obligations regarding alterations, repairs or improvements to the County's real property required under the ADA.
- 6.7 **Prison Rape Elimination Act of 2003 (PREA):** Contractor shall comply with the standards set forth in PREA, and any modification thereof by Congress, and other applicable federal or state laws and regulations. PREA is designed to eliminate sexual assault and rape in correctional systems. The law's focus is on both inmate-

to-inmate and staff-on-inmate encounters. Inmates are to be protected from sexual assault by other inmates, and from sexual contacts with correctional staff, whether involuntary (sexual assault) or consensual. Sexual harassment of inmates is also prohibited. Civilians and contract workers are included in the definition of "correctional employee." Contractor shall report any possible violation of PREA standards to the County Project Manager immediately.

- 6.8 **Drug-Free and Smoke-Free Workplace:** The County of Volusia is a drug-free and smoke-free workplace. Contractor agrees that it shall provide a drug-free environment to its personnel during the terms of the Agreement and will comply, subject to the prior receipt, with the County's policies on drug-free and smoke-free work place during the term of this Agreement.
- 6.9 **Personnel Background Screenings and Drug Testing:** The County, at its expense, will conduct a pre-screening background check as an additional validation of any prospective employee or present employee of the Contractor. This background check may include, but not be limited to, an FDLE or National Crime Information Center (NCIC) check. The County, at its sole discretion, shall have the right to rescind access clearance for any employee.
- 6.10 **Immigration Reform and Control Act of 1986:** The Contractor certifies that it does not and will not, during the performance of this Agreement, employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986, as amended.
- 6.11 **Fair Labor Standards Act:** The Contractor shall pay all employees working on this Agreement not less than the minimum wage specified in the Fair Labor Standards Act as amended.

7 TERM OF AGREEMENT AND NOTICE TO PROCEED

- 7.1 **Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall expire three (3) years after System Acceptance. After the first three (3) years following System Acceptance, this Agreement may be renewed by County for two (2) successive one (1)-year terms, or upon mutual agreement.
 - 7.1.1 All Change Orders issued under this Agreement shall terminate at the expiration of the term of the Change Order, unless amended in writing by the parties, or the term of this Agreement, except if a Change Order issued before the expiration of this Agreement cannot be completed until after the expiration of this Agreement, then this Agreement shall expire on the Completion Date of said Change Order, including any amendments thereto, and after all Work or Services under the Change Order have been approved and accepted by County's Project Manager. As such, the obligations entered therein by both parties under this Agreement and said Change Order shall remain in full force and effect until completion of all Work or Services performed under this Agreement and/or the Change Order.
- 7.2 **Notice to Proceed.** "Notice to Proceed" means written notice (including a Purchase

Order) issued by the Contract Administrator authorizing Contractor to proceed with providing the Deliverables and Services pursuant to this Agreement. Prior to beginning the performance of any Services, Contractor must receive a Notice to Proceed from the Contract Administrator. Prior to the execution of this Agreement, Contractor shall provide County with a properly completed insurance certificate, the completion of and submittal of which is considered a condition precedent to the execution of this Agreement, County shall issue the Notice to Proceed no later than fifteen (15) County business days after County's receipt and approval of the insurance certificate and the date that County executes this Agreement.

7.3 Completion of System Timetable.

7.3.1 **Completion Timetable.** The installation or implementation phase of the Project shall coincide with Exhibit A and not exceed one hundred twenty (120) days from receipt of the Purchase Order, or such other time frame mutually agreed upon by the Parties.

7.3.2 Contractor shall not be responsible for any delay resulting from acts or omissions due to a Force Majeure Event described in Section 15.14; or County's failure to perform testing because of a Force Majeure Event or its proximate fault, to provide information or materials requested by Contractor that are necessary for making the System ready for System Acceptance; or any material delay caused by County preventing Contractor for making the System ready for System Acceptance.

8 LIMITATION OF LIABILITY AND INDEMNIFICATION OF COUNTY.

8.1 **Indemnification.** The Contractor shall indemnify, defend and hold harmless the County and its agents, officers, and employees, from and against all claims, damages, losses, and expenses, including, but not limited to, attorney's fees, arising out of or resulting from the performance of this Agreement provided that the claim, damage, loss and expense is caused by any negligent act or omission of the Contractor, anyone directly or indirectly employed by Contractor, except the Contractor will not be required to indemnify and hold the County harmless if such claim, damage, loss and expense is the result of the sole negligence of the County, or of anyone directly or indirectly employed by the County or anyone for whose acts the County may be liable.

8.2 Infringement Claim.

8.2.1 For all Licensed Software or derivate works of the Licensed Software used by County under this Agreement, Contractor agrees to protect, defend, indemnify, and hold harmless County, its agents, elected officials and employees of County from and against any and all claims, demands, actions, and causes or action which may arise asserting that all or any part of Contractor's Licensed Software or applications that are owned and licensed by Contractor to County for use thereof by County, infringe or misappropriate any third party's valid state patent, copyright, trademark, or any trade secret protected under United States law.

8.2.2 In the event of an infringement claim, Contractor shall have the option: (i) to procure for County the right to continue using any product or service found to be infringing; (ii) to replace any such infringing product or service with a non-infringing product or service; (iii) to modify such infringing product or service to make it non-infringing; or (iv) if the preceding options are not commercially reasonable, to remove the infringing material and refund any fees which the County may have paid for it. Contractor shall have no obligation under this Article if the Infringement Claim is based upon the use of the System in combination with other hardware or software applications not furnished by Contractor, or if such a claim arises from County's modification of the System without the authorization of Contractor.

8.3 **Sovereign Immunity.** The County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the County beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature, and the cap on the amount and liability of the County for damages, regardless of the number or nature of claims in tort, equity, or contract, shall not exceed the dollar amount set by the legislature for tort. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the County, which claim would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

9 **INSURANCE**

9.1 **Required Types of Insurance**

The Contractor shall purchase and maintain at its own expense, during the term of this Agreement the following types and amounts of insurance with limits no less than those shown below, in the form and from companies satisfactory to the County:

<u>SCHEDULE</u>	<u>LIMITS</u>
Workers' Compensation	Florida Statutory Coverage
Commercial General Liability	\$2,000,000. General Aggregate
.....	\$2,000,000. Products/CompOps Aggregate
Products-Completed Operation.....	\$1,000,000. Personal/Advertising Injury
.....	\$1,000,000. Each Occurrence

(The County of Volusia shall be named as an additional insured under all of the above Commercial General Liability coverage.)

Auto Liability\$500,000. CSL
All autos-owned, hired or no-owned (Symbol 1 Coverage)

Computer Software & Services Errors or Omissions ... \$500,000.

Crime Insurance \$1,000,000.
(or Fidelity Bond)

- 9.1.1 Minimum underlying coverages shall include Commercial General Liability, Automobile Liability and Workers' Compensation/Employer's Liability. (Umbrella liability limit will not be required to be carried by Subcontractors.)
- 9.1.2 Umbrella or Excess Liability policies may be used to obtain the total limits of liability required to meet the required limits of coverage stated above. Evidence of such coverage should clearly demonstrate the underlying coverages/policies that are included.
- 9.1.3 **Workers' Compensation Insurance.** Workers' Compensation insurance is required for all employees of the Contractor without exclusion for any class of employee, and shall comply fully with the Florida Workers' Compensation Law (Chapter 440, Florida Statutes, Workers' Compensation Insurance) and include Employers' Liability Insurance with limits no less than the statutory amount shown above per occurrence.
- 9.1.3.1 Contractor and its Subcontractors, or any associated or subsidiary company doing Work on County property or under this Agreement must be named in the Workers' Compensation coverage or provide proof of their own Workers' Compensation coverage, without exclusion of any class of employee, and with a minimum of the statutory limits per occurrence for Employer's liability coverage. Further, if the Contractor's Subcontractors fail to obtain Workers' Compensation insurance and a claim is made against the County by the uncovered employee of said Subcontractor of the Contractor, the Contractor shall indemnify, defend, and hold harmless the County from all claims for all costs including attorney's fees and costs arising under said employee(s) Workers' Compensation insurance claim(s).
- 9.1.4 **Commercial General Liability Insurance.** Commercial General Liability insurance, with a limit of not less than the amounts shown above, shall be issued on an occurrence basis and include coverage for the Contractor's operations, independent Contractors, and Subcontractors. Such insurance shall also include "broad form" property damage coverages insuring the Contractor, its employees, agents, subcontractors or subsidiaries, and their employees or agents for claims for damages caused by bodily injury, property damage, or personal or advertising injury, and products liability/completed operations, including what is commonly known as groups A, B, and C (libel, false arrest, slander). Such policies shall include coverage for claims by any person as a result of actions directly or indirectly related to the employment of such person or entity by the Contractor or by any of its Subcontractors, which claims arise from Work or Services performed under this Agreement. Public liability coverage shall include either blanket contractual insurance or a designated Agreement contractual liability coverage endorsement, indicating expressly the Contractor's Agreement to indemnify, defend, and hold harmless the County as provided in this Agreement. The commercial general liability policy shall be endorsed to include the County as an additional insured.

- 9.1.5 **Motor Vehicle Liability.** The Contractor shall secure and maintain during the term of this Agreement, motor vehicle coverage in the split limit amounts of no less than the amounts shown above per person, per occurrence for bodily injury and for property damage or a combined single limit of the amount shown above with **“Any Auto”, Coverage Symbol 1, providing coverage for all autos operated regardless of ownership, and** protecting itself, its employees, agents or lessees, or subsidiaries and their employees or agents against claims arising from the ownership, maintenance, or use of a motor vehicle.
- 9.1.6 **Crime Insurance Policy.** The Contractor shall provide a crime insurance policy for a minimum amount of one million dollars (\$1,000,000.00) during the term of the Contract. This policy shall cover any incident involving the Contractor’s personnel assigned to work in the County for the same limits. The policy shall be for both crime and dishonesty exposures. A copy of the actual policy is required as verification, and shall be filed with the Purchasing and Contracts Office upon award of a Contract, and shall be subject to approval before work can commence under the Contract. The policy shall name the County as joint loss payable.
- 9.1.7 **Computer Software and Services Liability.** The Contractor shall ensure that it secures and maintains, during the term of this Contract, professional liability insurance with limits of no less than the amount shown above contemplated by this Contract. The coverage shall replace or restore County electronic data lost from any cause whatsoever (including but not limited to a computer virus, acts of God, malware, or breach of network security or loss of use, reduction in functionality or damage, destruction, distortion, erasure, corruption or alteration of electronic data) arising from Contractor’s services under the Contract, including any cost or expense of whatsoever nature resulting there from. Such policy shall cover all the Contractor’s or its Subcontractor’s professional liabilities whether occasioned by the Contractor or its Subcontractors, or their agents or employees.
- 9.1.7.1 If the Contractor fails to secure and maintain the liability insurance coverage required herein, the Contractor shall be liable to the County for any losses that would otherwise be covered by such insurance and agrees to indemnify, defend, and hold harmless the County against and from all claims, actions, losses or damages that would have been covered by such insurance.
- 9.1.7.2 **Claims-based Policies.** For any claims based policies held by the Contractor, the Contractor must maintain a retroactive date prior to or equal to the effective date of this Agreement. The Contractor shall purchase a Supplemental Extended Reporting Period (“SERP”) with a minimum reporting period of not less than three (3) years in the event a Subcontractor’s policy is canceled, not renewed, switched to occurrence form, or any other event which requires a purchase of SERP to cover a gap in insurance for claims which may arise under or related to this Agreement. The Contractor’s purchase of the SERP

shall not relieve the Contractor of the obligation to provide replacement coverage if coverage is terminated or otherwise lapses. In addition, the Contractor shall require the Subcontractor's carrier to immediately inform the Contractor, and the County of Volusia's Risk Management Division and the Purchasing and Contracts Division of any contractual obligations that may alter the Contractor's professional liability coverage under this Agreement.

- 9.1.8 **Primary and Excess Coverage.** Any insurance required may be provided by primary and excess insurance policies.

9.2 Insurance Requirements

9.2.1 General Insurance Requirements:

- 9.2.1.1 All insurance policies shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of A- in the "Best Key Rating Guide" published by A.M. Best & Company, Inc.
- 9.2.1.2 Approval by County of any policy of insurance shall not relieve Contractor from its responsibility to maintain the insurance coverage required herein for the performance of Work or Services by the Contractor or its Subcontractors for the entire term of this Agreement and for such longer periods of time as may be required under other clauses of this Agreement.
- 9.2.1.3 **Waiver of Subrogation.** The Contractor hereby waives all rights against the County and its Subcontractors to the extent of the risk coverage by any insurance policy required hereunder for damages by reason of any claim, demand, suit or settlement (including workers' compensation) for any claim for injuries or illness of anyone, or perils arising out of this Agreement. The Contractor shall require similar waivers from all its Subcontractors. This provision applies to all policies of insurance required under this Agreement (including Workers' Compensation, and general liability).
- 9.2.1.4 **County Not Liable for Paying Deductibles.** For all insurance required by Contractor, the County shall not be responsible or liable for paying deductibles for any claim arising out of or related to the Contractor's business or any Subcontractor performing Work or Services on behalf of the Contractor or for the Contractor's benefit under this Agreement.
- 9.2.1.5 **Cancellation Notices.** During the term of this Agreement, Contractor shall be responsible for promptly advising and providing the County's Risk Management and the Purchasing and Contracts divisions with copies of notices of cancellation under this Agreement within thirty (30) calendar days of receipt of such notice or change.
- 9.2.1.6 **Additional Insured.** For any on-site Work performed by or on behalf

of Contractor on County property, the County shall be named as an additional insured or additional named insured subject to review and determination by County's Risk Manager on all policies required under this Agreement.

- 9.2.1.7 **Deductibles.** For purposes of this Agreement, Contractor shall not obtain an insurance policy with a deductible or self-insurance provision. Subject to County approval, Contractor may obtain a letter of credit in the amount equivalent to the deductible which will be in effect during the term of this Agreement at no additional cost to the County.

9.3 Proof of Insurance

9.3.1 The Contractor shall be required to furnish evidence of all required insurance in the form of certificates of insurance, which shall clearly outline all hazards covered as itemized herein, the amounts of insurance applicable to each hazard and the expiration dates.

9.3.2 The Contractor shall furnish proof of insurance acceptable to the County prior to or at the time of execution of this Agreement and the Contractor shall not commence Work or provide any Service until the Contractor has obtained all the insurance required under this Agreement and such insurance has been filed with and approved by the County. This Agreement may be terminated by the County, without penalty or expense to County, if at any time during the term of this Agreement proof of any insurance required hereunder is not provided to the County or fails to maintain the insurance required under this Agreement during the term of this Agreement.

9.3.3 All certificates of insurance shall clearly indicate that the Contractor has obtained insurance of the type, amount and classification required by this Article. No Work or Services by Contractor or its Subcontractors shall be commenced until County has approved these policies or certificates of insurance. Further, the Contractor agrees that the County shall make no payments pursuant to the terms of this Agreement until all required proof or evidence of insurance has been provided to the County. This Contractor may be terminated by the County, without penalty or expense, if proof of any insurance required hereunder is not provided to the County.

9.3.4 The Contractor shall file replacement certificates with the County at the time of expiration or termination of the required insurance occurring during the term of this Agreement. In the event such insurance lapses, the County expressly reserve the right to renew the insurance policies at the Contractor's expense or terminate this Agreement but County has no obligation to renew any policies.

9.4 The provisions of this Article shall survive the cancellation or termination of this Agreement.

10 TERMINATION

- 10.1 This Agreement may be terminated by (a) either party upon the material breach by the other party if such breach is not cured within thirty (30) days written notice from the non-breaching party.
- 10.2 Contractor may terminate this Agreement for any reason upon one hundred twenty (120) calendar days' written notice to the County. The County may terminate this Agreement for any reason upon thirty (30) calendar days' written notice to the Contractor. If termination is for non-appropriation, failure to give such notice shall not impede termination of the Agreement or otherwise entitle the Contractor to recovery of any damages or penalties.
- 10.3 After Contractor's receipt of a notice of termination pursuant to Section 10.1 above (or to the extent Contractor has not cured a material breach within thirty (30) days notice from County), and except as otherwise directed by the County, the Contractor shall:
 - 10.3.1 Stop work under the Agreement or applicable statement of work on the date specified in the notice of termination.
 - 10.3.2 Place no further orders or subcontracts for materials, services or facilities.
 - 10.3.3 Terminate all orders and subcontracts to the extent that they relate to the performance of work or Services terminated by the Notice of Termination.
 - 10.3.4 With the approval of the County and to the extent required by the County, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts. County's approval of such settlements shall be final for all the purposes of this Article 10 – Termination.
- 10.4 After receipt of a notice of termination, the Contractor shall submit to the County its termination claim for amounts owed by County (which shall include, without limitation, all amounts due for Work or Services performed through the date of termination), in the form and with a certification as prescribed by the County. Such claim shall be submitted in writing and within thirty (30) days from the effective date of termination, unless the claims period is extended in writing by the County. Upon failure of the Contractor to submit its termination claim within the time allowed, the County may determine on the basis of information available to it, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.
- 10.5 **Non-Appropriation.** This Agreement may be terminated by the County or Contractor if the County does not appropriate the funding in any fiscal year necessary to pay the compensation set forth in Article 5 – Compensation and Method of Payment. Such termination shall be without penalty to the County.
- 10.6 In the event that this Agreement is terminated by the County or Contractor for non-appropriation, Contractor shall be paid in accordance with terms of Article 10 – Termination. Contractor shall be paid (a) to the date of termination on a prorated basis for any task and Deliverable designated for payment on the Payment Milestone Schedule that was started but not completed and (b) for any work or Deliverable that has been completed but not yet been paid. County's obligation to pay Contractor under this Section and this Agreement is limited to the budgeted amount for the fiscal year approved by the Volusia County Council for the then current fiscal year of this

Agreement. Contractor shall have no right to compel the Volusia County Council to appropriate funds for any fiscal year to pay the compensation.

- 10.7 Upon being notified of County's election to terminate; Contractor and its Subcontractors shall refrain from performing further work or incurring additional expenses under the terms of this Agreement which is not specifically authorized in the Notice of Termination.
- 10.8 If termination of this Agreement occurs for any reason:
 - 10.8.1 Except as otherwise provided in this Agreement, each party shall return to the other party, or destroy, all confidential information in its possession and shall certify the destruction or return of said information in a written document signed by the duly authorized representative that all such information has been destroyed or returned, provided that the receiving party shall be permitted to retain an archival copy of any such confidential information (provided in continues to maintain the confidentiality of such as prescribed herein) to the extent necessary to have a record of the Service performed hereunder.
 - 10.8.2 For all undisputed outstanding invoices submitted to the County for Work completed or Deliverables delivered prior to the effective date of the termination, the County shall cause payments to be made to Contractor within forty-five (45) days of receipt of invoice. Contractor shall invoice the County for any sums Contractor claims to be owed by County under this Agreement for work performed from the last invoice to the effective date of termination. County shall review such invoice for payment within fifteen (15) days of receipt and County shall pay any undisputed amount within forty-five (45) days, subject to Article 5 – Compensation and Method of Payment. Any disputed amounts on any invoices shall be subject to the dispute resolution process set forth in Article 12 – Dispute Resolution hereof.
- 10.9 In the event of termination by the County, for all items or products ordered by Contractor before receipt by Contractor of the Notice of Termination which Contractor could not cancel without imposition of a fee, the County shall cause payments to be made to Contractor within forty-five (45) days of receipt of an undisputed invoice for all cancellation, restocking or residual fees resulting from the cancellation or return of Third Party Products ordered from or shipped by the vendor thereof prior to the effective date of the termination.
- 10.10 If Contractor is unable to deliver the System in a manner that enables the System and all of its functional components to pass Final Acceptance testing, County shall have the right to terminate the Agreement and have the right to receive from Contractor a refund of the Implementation Fee actually received by the Contractor through the date of such termination. If County determines that the Contractor has not met the Final Acceptance Testing Criteria, County shall notify Contractor in writing with those specific criteria Contractor has failed to satisfy. Contractor shall have sixty (60) days to satisfy the requirements, or such longer time as the parties mutually agree.

11 CONFIDENTIAL INFORMATION

- 11.1 Both parties hereby acknowledge that each may be exposed to confidential and proprietary information of the other and providers of software and confidential and proprietary information, business information, and information that may be exempted from disclosure or prevented from being disclosed by reason of law. If Contractor intends to designate certain information provided to County as Confidential, then such information must be expressly identified in writing by the Contractor and Contractor must provide the County with a completed Non-disclosure form provided by the County.
- 11.2 Confidential information shall constitute information which is exempt from disclosure pursuant to Chapter 119, Public Records Law, Florida Statutes (2014), and Article I, Section 24 of the Florida Constitution ("Florida Public Records Law"), and Chapter 812 of the Florida Statutes (2014) (hereinafter "Confidential Information"). In addition and for the purposes of this Agreement and any future statement of work, Confidential Information shall include Confidential Information and/or trade secret information disclosed by Contractor to County that is expressly identified in writing by Contractor and Contractor's subcontractors. As such, any Confidential Information as defined herein that is provided by Contractor to County must be expressly identified in a fully completed and executed Nondisclosure Agreement for Confidential Materials which Contractor may obtain from the County's Purchasing and Contracts Division.

Confidential Information and/or trade secrets do not include the following:

- 11.2.1 Information already known to or independently developed by the recipient;
- 11.2.2 Information in the public domain through no wrongful act of the recipient;
- 11.2.3 Information received by the party in possession from a third party the recipient;
- 11.2.4 Information regularly disclosed by the owner of the information to third parties without restriction on disclosure; or
- 11.2.5 Information required to be disclosed by law or an order of court, provided that a party required to make disclosure of the other party's Confidential Information shall first notify the other party of such requirement and permit the party to obtain a protective order or other similar relief.
- 11.3 With respect to the Confidential Information, both parties hereby agree that during the term of this Agreement and at all times thereafter, neither shall use, commercialize or disclose such Confidential Information obtained from the other to any person or entity, except to such other parties as the party claiming confidentiality may approve in writing and under such conditions as such claiming party may impose in writing.
- 11.4 **Restrictions upon Disclosure of Information.** Each party agrees subject to the conditions and obligations of this Article 11 – Confidential Information:
- 11.4.1 To treat the other's Confidential Information as proprietary to the other;

- 11.4.2 To not knowingly disclose to any person, other than its employees, consultants, or agents or the employees, consultants and agents of the other party (as directed by the other party), any Confidential Information belonging to the other party, and
- 11.4.3 To inform its employees, consultants and agents of the confidential nature of the others information and of the requirement of nondisclosure.
- 11.4.4 In the event either party has actual knowledge of a breach of the nondisclosure requirements of this Article, the party acquiring such knowledge shall promptly inform the other party and assist that party in curing the disclosure, where possible, and preventing future disclosures.
- 11.5 Where County receives a request by a third party for disclosure of (i) the Confidential Information or (ii) other information that County believes to be Confidential Information and/or a trade secret of Contractor, County shall, in either instance, give written notice to Contractor and Contractor shall take immediate action to notify County in writing whether Contractor agrees to the disclosure or whether Contractor opposes disclosure and shall take legal action to prevent such disclosure.
- 11.6 Where Contractor receives a request by a third party for disclosure of information that Contractor believes to be Confidential Information and/or a trade secret of County, Contractor shall give written notice to County and County shall take immediate action to notify Contractor in writing whether County agrees to the disclosure or whether County opposes disclosure and shall take legal action to prevent such disclosure.
- 11.7 In the event a third party makes a public records request to the County for disclosure of the Licensed Software or Documentation or any item which has been marked and identified by Contractor as confidential or a trade secret, and, the County has refused disclosure and the third party files suit to require disclosure, Contractor acknowledges the County is required to submit any requested item to the court for inspection in camera as set forth in Section 119.07(1) (g), Florida Statutes (2014). Contractor further acknowledges that Section 119.12, Florida Statutes (2014), states:

If a civil action is filed against an agency to enforce the provisions of this chapter and if the court determines that such agency unlawfully refused to permit a public record to be inspected or copied, the court shall assess and award, against the agency responsible, the reasonable costs of enforcement including reasonable attorneys' fees.
- 11.8 Contractor understands and acknowledges that records kept, maintained, or made in the course of performing this Agreement are public records, subject to disclosure pursuant to Chapter 119, Florida Statutes, unless such records are deemed private or otherwise confidential and exempt pursuant to Florida law. If the Contractor fails to cooperate with the County in producing any such records or otherwise fails to maintain, keep, and store such records in accordance with Florida law, then the Contractor shall be liable to the County for any costs, fees, or penalties assessed against the County pursuant to Section 119.12, Florida Statutes (2014), including any successor statutes, and shall further indemnify, defend, and hold the County harmless from any such costs, fees, or penalties.
- 11.9 Contractor acknowledges and agrees that the County is the owner and custodian of

information and data, whether or not such is electronically retained and regardless of the retention media and that the use of any Licensed Software in relation to such information or data does not in any way restrict the rights or obligations of County regarding disclosure of their data and information, provided that the foregoing shall not be construed to permit County to disclose any Confidential Information (including without limitation the Licensed Software or Documentation) in contravention of County's obligations hereunder or under Florida or Federal law.

- 11.10 Except to the extent authorized in this Agreement, both parties hereby agree that during the term of this Agreement and at all times thereafter, neither shall use, commercialize or disclose Confidential Information as defined herein and/or trade secret obtained from the other to any person or entity, except to such other parties as the party claiming confidentiality may approve in writing and under such conditions as such claiming party may impose in writing.
- 11.11 Notwithstanding the foregoing provisions, disclosure of a purported trade secret or Confidential Information shall not be precluded if:
 - 11.11.1 Such disclosure is in response to a valid order of a court or other governmental body of the United States or any political subdivision thereof; or
 - 11.11.2 Such disclosure is necessary to establish rights or enforce obligations under this Agreement and its Exhibits, but only to the extent that any such disclosure is necessary for such purpose; or
 - 11.11.3 The County received the prior written consent to such disclosure from Contractor, but only to the extent permitted in such consent; or
 - 11.11.4 Disclosure is required by Florida law, including but not limited to Chapter 119, Florida Statutes; or
 - 11.11.5 Disclosure is not exempted by Florida law, including but not limited to Chapter 119, Florida Statutes; or
 - 11.11.6 Disclosure is required by Federal law, which is preemptive of Florida law.
- 11.12 In the event of an intended or required disclosure described in Section 11.11, the party intending or being required to disclose the other party's Confidential Information shall provide the other party with reasonable advance notice in order to permit the other party the opportunity to seek a protective order or other appropriate relief. Regardless of Sections 11.11.2 and 11.11.3 above, County shall first comply with its obligations under this Agreement, subject to Chapter 119, Florida Statutes (2014) that permit Contractor to object to such disclosures.
- 11.13 Notwithstanding anything to the contrary contained above or elsewhere in this Agreement, County shall have the right to use the Licensed Software to provide access by the public or government agencies to the database(s), files or information derived from the use of the System and/or to generate reports from such files or information, files or information on electronic media to the public where required or

allowed by the laws of the State of Florida or other laws allowing disclosure by County, provided that the foregoing shall not be construed to permit County to disclose any Contractor Confidential Information in contravention of County's obligations hereunder.

11.14 County Data Confidentiality and Use Restrictions

11.14.1 Contractor agrees and understands that all files and other information and data created, maintained, or kept in connection with this Agreement constitute a public record, except to the extent it is exempt from disclosure or proprietary under Florida Law, (including but not limited to Chapter 119, Florida Statutes). Contractor agrees to maintain for public record access such files and to maintain for public access such files after termination of this Agreement to the extent required by the laws and applicable retention periods of the State of Florida. Nothing in the foregoing should be construed to limit the rights of Contractor in its Licensed Software or Documentation, including without limitation any files, information or data created in the modification or customization of the Licensed Software or Documentation for any specific purpose of County, and County recognizes that Contractor shall retain all intellectual property rights in such modifications or customizations.

11.14.2 The parties agree that Chapter 119, F.S., and other Florida Statutes articulate that certain data and written and oral information is exempt or confidential under Florida law. As such, and pursuant to Chapter 119, F.S., County claims such exemption or confidentiality to include, but not be limited to, social security numbers, medical information, pending law enforcement investigations, and any information which reveals the home address or telephone number of a law enforcement officer. All such information or data that is supplied by County or any third party pursuant to this Agreement shall be kept confidential and shall not be used or disclosed to any other party, directly or indirectly, without County's prior written consent unless required by an order issued by a court of lawful jurisdiction. All data provided by County or its agents under this Agreement and all results derived therefrom through the use of the System shall be and remain the County's property, and may be reproduced and reused solely at the discretion of the County.

11.14.2.1 Upon any termination or expiration of this Agreement, Contractor, upon County's written request, shall promptly deliver, but not more than thirty (30) days after County's request, to County an extract of County's data in the System in XML format or such other format as mutually agreed upon by County and Contractor.

11.15 THE ABOVE DUTIES AND OBLIGATIONS SHALL SURVIVE THE CANCELLATION OR TERMINATION OF THIS AGREEMENT.

12 DISPUTE RESOLUTION

12.1 **Good Faith Efforts to Resolve.** The parties to this Agreement shall exercise their best efforts to negotiate and settle promptly any dispute that may arise with respect

to this Agreement in accordance with the provisions set forth in this Article 12 – Dispute Resolution. The Contractor and County Project Manager shall use reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, to address and work toward resolution of issues that arise in performance of this Agreement and any applicable statement of Work or Services. Issues shall be escalated to successive management levels as needed.

12.2 Informal Dispute Resolution. If a dispute develops between the parties concerning any provision of this Agreement, or the interpretation thereof, or any conduct by the other party under these agreements, and the parties are unable to resolve such dispute within five (5) business days or longer, that party, known as the Invoking Party, through its applicable Project Manager, shall promptly bring the disputed matter to the attention of the non-Invoking Party’s Project Manager or designated representative, as the case may be, of the other party in writing (“Dispute Notice”) in order to resolve such dispute.

12.3 Discovery and Negotiation / Recommended Procedures. Upon issuance of a Dispute Notice, the Project Managers or designated representative shall furnish to each other all non-privileged information with respect to the dispute believed by them to be appropriate and germane. The Project Managers shall negotiate in an effort to resolve the dispute without the necessity of any formal proceeding. If such dispute is not resolved by the Project Managers or designated representative within five (5) County Work Days of issuance of the Dispute Notice, or such other time as may be mutually allowed by the Project Managers as being necessary given the scope and complexity of the dispute, the Project Managers may, depending upon the nature, scope, and severity of the dispute, escalate the dispute as indicated below:

County Work Days	Contractor’s Representative	County Representative
10	Contractor’s Sr. Vice President of Sales	Director of Purchasing and Contracts
20	Contractor’s COO or President	Deputy County Manager

12.4 Formal Dispute Resolution. At any point after issuance of a Dispute Notice under this section, either party may request and initiate formal non-binding mediation before a single mediator, which mediation shall be completed within thirty (30) days of initiation or such longer time as may be agreed upon by both parties as being necessary for the mutual selection of a mediator and scheduling of such mediation. Any such mediation shall be convened and conducted in accordance with the rules of practice and procedure adopted by the Supreme Court of Florida for court-ordered mediation, Rule 1.700 et seq. of the Florida Rules of Civil Procedure, and Chapter 44, Florida Statutes. If the dispute remains unresolved after conducting such mediation, then either party may proceed to finalize any pending termination remedies and commence litigation in a court of competent jurisdiction. Each party shall bear its own costs and attorney’s fees for mediation or arbitration of an issue arising under this Agreement.

12.5 Right to Terminate Reserved. Regardless of the dispute resolution procedures provided for in this Article 12 – Dispute Resolution, nothing herein shall affect, delay, or otherwise preclude a party from terminating this Agreement in accordance with the provisions of Article 10 – Termination, it being understood that these dispute

resolution procedures are intended as a means of resolving disputes both during the term of this Agreement and after termination or expiration thereof.

13 DATE STANDARDS

- 13.1 Contractor warrants that each item of software in the SOW or future statement of work that it delivers, develops, modifies, or recommends to County for uses under this Agreement shall be able to accurately store and process date/time data in four (4) digit year fields (including, but not limited to, calculating, comparing, interfacing and sequencing) from, into, and between the nineteenth through the twenty-second centuries, and leap year calculations. The duration of this warranty and the remedies available to County for breach of this warranty shall be as defined in, and subject to, the terms and limitations of Contractor's warranties contained in this Agreement; provided that notwithstanding any provision to the contrary in any such warranty provision(s), or in the absence of any such warranty provision(s), the exclusive remedies available to County under this warranty shall include repair or replacement, at no cost to County of any of the products whose noncompliance is discovered and made known to Contractor in writing, after System Acceptance by County. Nothing in this warranty shall be construed to limit any rights or remedies County may otherwise have under this Agreement with respect to Defects.

14 TITLE AND LICENSE

- 14.1 Contractor shall own all rights, title and interest in and to the Licensed Software and Documentation and the related source code including copyright, trade secret, patent, trademark and other proprietary rights as well as all customizations, enhancements, modifications, improvements, derivations or other variations thereof. This Agreement does not transfer to County under any circumstances any of Contractor's ownership rights in the Licensed Software.
- 14.2 **Warranty as to Intellectual Property Infringement.** Contractor represents and warrants that at the time of entering into this Agreement no claims have been asserted or action or proceeding brought against Contractor which alleges that all or any part of the Software to be supplied by Contractor or the operation or use thereof by County, infringes or misappropriates any patent, copyright, mask copyright or any trade secret or other intellectual or proprietary right of a third party, nor is Contractor aware of any such potential claim. Contractor also represents and warrants that Contractor shall use reasonable efforts to ensure its Services and Deliverables to be provided pursuant to this Agreement shall not infringe or misappropriate any patent, copyright, mask copyright or any trade secret or other intellectual or proprietary right of a third party; provided nothing in this section shall be construed to limit Contractor's obligation to indemnify County pursuant to Section 8.1 hereof.

15 MISCELLANEOUS PROVISIONS

- 15.1 **Public Entity Crimes Act.** Contractor represents that the execution of this Agreement shall not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a Agreement to provide any goods or services to County, may not submit a bid on a Agreement

with County for the construction or repair of a public building or public work, may not submit bids on leases of real property to County, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a Agreement with County, and may not transact any business with County in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from County's competitive procurement activities. In addition to the foregoing, Contractor further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Contractor has been placed on the convicted vendor list.

- 15.2 **Equal Opportunity; Disadvantaged Business Enterprises / Americans With Disabilities Act.** During the performance of this Agreement, the Contractor agrees that it shall not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor shall further ensure that it complies with all applicable provisions and implementing rules of the Americans with Disabilities Act ("ADA"), including Titles I, II, and III thereof (as appropriate), in its employment practices and provision of work, products, and services, which obligation shall include ensuring that any products or services provided to the County for the use of the general public are ADA compliant and fully accessible under Title II of the ADA. If the County or another governmental agency charged with the enforcement of the ADA informs the Contractor that one or more of its products or services do not comply with the accessibility requirements of the ADA, the Contractor shall correct such deficiency immediately and at no charge to the County. To the extent permitted by law, Contractor further agrees to indemnify, defend, and hold the County harmless from any sanctions, penalties, or damages, including attorneys' fees and costs, claimed against the County in connection with the Contractor's failure to adhere to or otherwise abide by the requirements of the ADA in its provision of products or services.
- 15.3 **Drug-Free Workplace.** The County of Volusia is a drug-free and smoke-free workplace. Contractor agrees that it shall provide a drug-free environment to its personnel during the terms of the Agreement and shall comply, subject to the prior receipt, with the County's policies on drug-free and smoke-free work place during the term of this Agreement.
- 15.4 **Independent Contractor.** Contractor is an independent contractor under this Agreement. Services provided by Contractor pursuant to this Agreement shall be subject to the supervision of Contractor. In providing such Services, neither Contractor nor its agents shall act as officers, employees, or agents of the County. No partnership, joint venture, or other joint relationship is created hereby. County

does not extend to Contractor or Contractor's agents any authority of any kind to bind County in any respect whatsoever.

- 15.5 **Third Party Beneficiaries.** Neither Contractor nor County intends to directly or substantially benefit a third party by this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement, except as otherwise provided in this Agreement.
- 15.6 **No Contingent Fees.** Neither Contractor nor any parent or subsidiary corporation has employed or retained any company or persons, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement and that they have not paid or agreed to pay any persons, company, corporation, individual or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, County shall have the right to terminate the Agreement at its discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.
- 15.7 **Notice.** All notice required under this Agreement shall be in writing and shall be sent by certified United States Mail or national parcel service, postage prepaid, return receipt requested, or by hand-delivery with a written receipt of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

In the case of County:	with copies of legal notices to:
<p style="text-align: center;">County of Volusia</p> <p>Attn: Director of Purchasing & Contracts Address: 123 W. Indiana Ave., Rm. 302 DeLand, Florida 32720 Phone: 386-736-5935</p>	<p style="text-align: center;">County of Volusia</p> <p>Attn: County Attorney Address: 123 W. Indiana Ave., Rm. 301 DeLand, Florida 32720 Phone: 386-736-5950</p>
<p>with copies of claim notices to:</p> <p style="text-align: center;">County of Volusia</p> <p>Attn: Risk Management Director Address: 230 N Woodland Blvd., Rm. 250 DeLand, Florida 32720 Phone: 386-736-5963</p>	<p style="text-align: center;">Volusia County Division of Corrections</p> <p>Attn: Corrections Director Address: 1354 Indian Lake Road Daytona Beach, FL 32124 Phone: 386-254-1555</p>
In the case of Contractor:	with a copy of legal notices to:
<p>Attn: Derek Harless, Director of Business Development Address: 2300 Warrenville Road Downers Grove, IL 60515 Phone: 904-703-2274</p>	<p>Attn: Christopher Stearns, Asst. General Counsel Address: 1101 Market Street, 29th Floor Philadelphia, PA 19107 Phone: 215-238-6878</p>

15.8 Assignment and Performance.

Consultant may not assign or otherwise convey Consultant's rights and/or obligations under this Contract without first providing County with a processing fee of FIVE HUNDRED DOLLARS (\$500) and obtaining County's prior written consent, which consent County may withhold, limit and/or condition in County's sole discretion.

Failure by the Consultant to obtain the County's consent in accordance with this Section prior to assignment or other conveyance shall: 1) constitute a material breach of the Contract; and 2) entitle the County to retain any and all legal rights, claims and defense to enforce this Section, including, but not limited to, injunctive, declaratory, damages and attorney's fees and costs. Payment of any sum by the County in accordance with the Contract to the Consultant or any person or entity prior to the Consultant obtaining the County's consent to the assignment shall not constitute a waiver of the rights of the County under this Section.

15.8.1 Nothing herein shall preclude the right of the County to waive its rights under this Section but no waiver shall be granted by the County without amendment to the Contract. The Consultant is hereby placed on notice that the County may demand a discount of up to ten percent (10%) from those rates or compensation for the goods or services established in the Contract as a condition to execution of the amendment.

15.9 **Conflicts.** Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement. Contractor further agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Contractor is not a party, unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Contractor or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding. In the event Contractor is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, Contractor agrees to require such subcontractors, by written Agreement, to comply with the provisions of this section to the same extent as Contractor.

15.10 **Audit Right and Retention of Records.** County shall have the right to audit the books, records, and accounts of Contractor and its subcontractors that are related to this Agreement. Contractor and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement. Contractor shall preserve and make available, at reasonable times for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is

- not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by County to be applicable to Contractor's and its subcontractor's records, Contractor shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Contractor or its subcontractors. Contractor shall, by written Agreement, require its subcontractors to agree to the requirements and obligations of this Section.
- 15.11 Time of the Essence.** Time is of the essence for all work or Services performed throughout this Agreement.
- 15.12 Location of County Data.** Contractor shall not out-source any development and/or support for this Agreement or transfer any County Data outside the territorial limits of the United States of America, without the written approval of the Contract Administrator.
- 15.13 References to County or Contractor.** Contractor agrees that during the term of this Agreement, except as provided herein, Contractor may not reference County in Contractor's website, and/or press releases, and, may not place County's name and logo on Contractor's Web site or in collateral marketing materials relating to Contractor's products and services without prior review and written approval by County. Further, Contractor agrees that it may not use County's name, logo or any trademarks (including in any press releases, customer "case studies," and the like) without County's prior written consent. Termination or expiration of this Agreement shall not affect Contractor's obligation in this regard and such obligation shall survive the termination or cancellation of this Agreement. Except as provided herein, Contractor's Licensed Software or Deliverables shall not contain any references to Contractor on any screenshots, user screens, or other output, except that Contractor may include applicable copyright notices or similar documentation required for protection of Contractor's intellectual property, or as otherwise approved by County.
- 15.14 Force Majeure.** Neither party shall be liable for any failure or delay in the performance of its obligations under this Agreement to the extent resulting from force majeure, including, but not limited to, acts of God, act or omissions of the other party, Government acts or omissions, fires, strikes, natural disasters, wars, riots, transportation problems, and/or any other cause whatsoever beyond the reasonable control of the parties (an such cause being referred to as a "Force Majeure Event"). Accordingly, the parties further agree that:
- 15.14.1** Upon the occurrence of Force Majeure Event, the non-performing party shall be excused from any further performance of those obligations under this Agreement affected by the Force Majeure Event for as long as (a) the Force Majeure Event continues; and (b) the non-performing party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.
- 15.14.2** Upon the occurrence of a Force Majeure Event, the non-performing party shall, within two (2) County Work Days of the occurrence of the event or

failure caused by the event, whichever occurs later, notify the other party of the occurrence of such Force Majeure Event and describe in reasonable detail the nature of the Force Majeure Event and how such event impacts the impeded party's operations and performance pursuant to this Agreement.

- 15.14.3 In the event of a Force Majeure Event, the time for performance by the parties under the applicable statement of work shall be extended for a period of time equal to the time lost by reason of such cause through execution of a Change Order or Amendment pursuant to the terms of this Agreement. Regardless of the foregoing, where a cessation of the Contractor's work or services due to a Force Majeure event results in a denial of critical services to the public or otherwise jeopardizes the County's performance under an agreement with a third party or the County's eligibility to participate in a grant or other similar program, the County may terminate this Agreement without penalty and procure the services of another contractor to continue work or services provided pursuant to this Agreement.
- 15.15 **Truth-in-Negotiations.** Contractor's signature on this Agreement shall act as execution of a truth-in-negotiations certificate stating that wage rates and other factual unit costs supporting the compensation set forth in this Agreement are accurate, complete, and current at the time of contracting and that it has disclosed all obligations, debts or fees owed to the County or pending before the County prior to the execution of this Agreement.
- 15.16 **County's Limited Right to Transfer License.** County can assign the Licensed Software or this Agreement to any person or entity (other than a competitor of Contractor) that assumes the County's functions as it relates to the use of the System, including but not limited to a surviving governmental entity in the event of any change in the manner or form by which County is organized, provided that such assignment does not materially increase the scope or volume of work processed through the Licensed Software.
- 15.17 **Bankruptcy Rights of County.** All rights and licenses granted under or pursuant to this Agreement or any attachments hereto by Contractor to County are, and shall otherwise be deemed to be, for purposes of Section 365 (n) of the United States Bankruptcy Code (the "Code"), or replacement provision therefore, licenses to rights to "intellectual property" as defined in the Code. The parties agree that County, as licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the Code. The parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against Contractor under the Code, County shall be entitled to retain all of its rights under this Agreement.
- 15.18 **Third Party Products.** This Agreement does NOT include any licenses, training, installation, maintenance and ongoing support of integrated third-party products (including Microsoft Office, SQL Server, Crystal Reports, etc.) unless specifically stated herein.
- 15.19 **Escrow.**

- 15.19.1 If requested by the County, Contractor agrees to deposit the then most current Software source code and associated support materials at least once per year with a reputable software escrow agent for possible release to beneficiaries;
- 15.19.2 The County may at any time elect to become a beneficiary by filing the prerequisite beneficiary form and paying the associated annual Escrow Registration fees; and
- 15.19.3 The source code may be used by the County only if Contractor discontinues the ongoing support of the Software. In that event, the County may acquire a perpetual, non-exclusive license by paying to Contractor an amount of US \$1.00 to use the source code for the purpose of maintaining, supporting and modifying the software for its internal uses only.

16 FUNDING

- 16.1 Contractor recognizes that funding for County requirements, including the funding for monies to pay for the Deliverables provided under this Agreement is provided on a budget year basis, October 1 through September 30. Contractor further recognizes that the County Council of the County of Volusia is the authority which establishes, allocates or otherwise provides for County's budget year funding. If, in any budget year, funding for any reason is not provided for the Services and Deliverables or other monetary obligations herein, then such obligation may be terminated by County without penalty or further payment to Contractor. Additionally, in such event, except to the extent of the prorated amount of prepaid fees, Contractor may terminate the Agreement without further obligation to provide Services to County.

17 COUNTY RESPONSIBILITIES

- 17.1 County's responsibilities under this Agreement include: (a) installing all required communication networks and related equipment and services necessary to support the System; (b) explaining System requirements to Contractor personnel in advance of Delivery; (c) informing Contractor of changes in County hardware and software and their configuration that may impact in any way the performance of the System or interfaces between the System and other applications or software in use by County.
- 17.2 In order to receive technical support at its facilities, County shall notify Contractor promptly whenever County adds new facilities. Notification shall include the name of a contact person at the facility, the address and telephone number, the type of computer equipment, and the date the facility will begin accessing Licensed Software. In the absence of such notice, Contractor shall not be obligated to provide technical support for any such new locations.
- 17.3 County is responsible for instituting and maintaining security measures at its own sites to prevent non-authorized personnel from accessing Licensed Software.

18 PAYMENT OF SUBCONTRACTORS

- 18.1 Contractor shall save and hold the County harmless from any and all claims and actions from Contractor's Subcontractors for payment for Services and Deliverables provided by Subcontractors for Contractor under this Agreement.
- 18.2 Nothing in this Agreement shall create any obligation on the part of the County to pay

directly to any Subcontractor or Sub-subcontractor of Subcontractor any monies due to such Subcontractor, or claims of a Subcontractor or Sub-subcontractor of Subcontractor for amounts owed by Contractor to Subcontractor or Subcontractor to Sub-subcontractor for Work performed under this Agreement.

19 CONTRACTUAL PROVISIONS

- 19.1 **Waiver of Breach and Materiality.** Failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 19.2 **Compliance with Laws.** Each party shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.
- 19.3 **Severance.** In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective to the extent practicable.
- 19.4 **Entire Agreement.** This Agreement contains the entire agreement between Contractor and County. Any modifications to this Agreement shall not be binding unless in writing and signed by both parties.
- 19.5 **Applicable Law, Venue and Waiver of Jury Trial.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. Jurisdiction of and venue for any controversies or legal issues arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Judicial Circuit of County of Volusia, Florida, unless one or more causes of action asserted are legally cognizable solely in federal court, in which case, venue and jurisdiction for any such actions shall be in the United States Middle District Court of Florida, Orlando Division. By entering into this Agreement, Contractor and County hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Agreement. Each party agrees to bear its own costs and attorney's fees relating to any dispute arising under this Agreement unless otherwise stated herein.
- 19.6 **Amendments.** No modification, change order, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the award authority and Contractor.
- 19.7 **Prior Agreements.** This document represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The Parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.
- 19.8 All provisions of this Agreement which impose or contemplate continuing obligations

on a party shall survive the expiration or termination of this Agreement.

[The remainder of this page is intentionally blank.]

20 SIGNATURES

IN WITNESS WHEREOF, the parties have made and executed this Agreement for the County of Volusia Integrated Banking and Commissary for Corrections Agreement on the date last written below.

ARAMARK CORRECTIONAL SERVICES, LLC

COUNTY OF VOLUSIA, FLORIDA

BY: Mark R. Adams
Mark R. Adams
Vice President, Finance

BY: _____
Jason P. Davis
County Chair

Date: 5/5/15

Date: _____

(SEAL)

ATTEST

ATTEST

BY: Christopher Stearns
Name: Christopher Stearns
Title: Assistant Secretary

BY: _____
James T. Dinneen
County Manager

Date: 5-5-15

Date: _____

Council Date: _____

