

Attachment C

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the COUNTY of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) on behalf of the Santa Barbara COUNTY Sheriff's Office and Aramark Correctional Services, LLC with an address at 1101 Market Street, Philadelphia, Pennsylvania (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein for Inmate Commissary Services.

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. DESIGNATED REPRESENTATIVE

Custody Lieutenant Tim McWilliams at phone number (805) 681-4047 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Eric Johnson, Regional Vice President at phone number (215) 767-0010 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. NOTICES

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY:	Tim McWilliams, 4436-A Calle Real, Santa Barbara, CA 93110, (805)681-4047
To CONTRACTOR:	Eric Johnson, 4790 Regent Boulevard, Suite 150, Irving, TX, (215)-767-0010

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

CONTRACTOR agrees to provide Inmate Commissary services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. TERM

CONTRACTOR shall commence performance on May 17, 2016 and end performance upon completion, but no later than April 30, 2019 unless otherwise directed by COUNTY or unless earlier terminated. COUNTY will have an option to extend this Agreement for two (2) one (1)-year terms upon the parties mutual consent.

5. COMPENSATION PAYMENT AND REPORTING

CONTRACTOR shall pay COUNTY commission on all Net Sales (as defined in Exhibit B) generated by and through the sale of commissary items from all sources under this Agreement at the rates and in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference.

In addition, CONTRACTOR shall pay COUNTY a monthly utilization fee of \$1250.00 for on-site storage and packaging of commissary goods, as provided by Exhibit A and Exhibit B.

Failure of the CONTRACTOR to comply with any of the conditions herein may incur a fine per day of \$350.00 if CONTRACTOR fails to resolve such non-compliance within 30 days from the date of the COUNTY's written notice of non-compliance. The fine per day shall be effective starting on day 31 after the date of the COUNTY's written notice of non-compliance through the date the CONTRACTOR maintain compliance.

Discrepancies must be resolved to reasonable satisfaction of CONTRACTOR and COUNTY.

CONTRACTOR may, at the request of the COUNTY, utilize the inmate telephone provider for commissary ordering services at CONTRACTOR'S expense. This would allow inmates to select/order commissary items via telephone. CONTRACTOR shall work with Inmate Telephone provider to facilitate this service and shall provide payment, if required, to the inmate telephone provider. No expenses for this function shall be assessed to the inmate ordering commissary items.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent CONTRACTOR as to COUNTY and not as an officer, agent, servant, employee, joint venture, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

7. STANDARD OF PERFORMANCE

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or COUNTY government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. TAXES

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, sales tax, disability insurance, and workers' compensation insurance.

10. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

COUNTY shall be the owner of the following items developed solely in performance of this Agreement and not proprietary to CONTRACTOR upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, and other materials, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

12. NO PUBLICITY OR ENDORSEMENT

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

13. PARTIES PROPERTY AND INFORMATION

- A. All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.
- B. All financial, statistical, operating and personnel materials and information, including, but not limited to, the CONTRACTOR's systems and technologies, related to or utilized in CONTRACTOR's business

(collectively, the "CONTRACTOR Proprietary Information") is and shall remain confidential and the sole property of CONTRACTOR and constitutes trade secrets of CONTRACTOR. The COUNTY shall keep all CONTRACTOR Proprietary Information confidential and shall use the CONTRACTOR Proprietary Information only for the purpose of fulfilling the terms of this Agreement. The COUNTY shall not photocopy or otherwise duplicate any materials containing any CONTRACTOR Proprietary Information without the prior written consent of CONTRACTOR. Upon the expiration or any termination of this Agreement, all manuals, software, computers, diskettes, disks and disk drives, and other materials or documents containing any CONTRACTOR Proprietary Information, shall be returned to CONTRACTOR.

14. RECORDS, AUDIT, AND REVIEW

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

16. NONDISCRIMINATION

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara COUNTY Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

17. NONEXCLUSIVE AGREEMENT

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. NON-ASSIGNMENT

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

19. TERMINATION

- A. Each party may, by written notice to the other party, terminate this Agreement in whole or in part, at any time during the term of the Agreement or any renewal or extension, as specified below.
1. **For Convenience.** Each party may terminate this Agreement in whole or in part upon thirty (30) days written notice to the other party. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
 2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
 3. **For Cause.** Should one party default in the performance of this Agreement or materially breach any of its provisions, and such breach or default is not cured within one hundred and eighty (180) days after receipt by the defaulting party of a notice from the non-defaulting party, specifying the nature of such default or breach, the other party may, at its sole option, terminate or suspend this Agreement in whole or in part. After 180 days of receipt of notice specifying the nature of such breach or default, unless such breach or default has been cured, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be on day 181 after the date the notice specifying the nature of such breach or default is received, unless the notice directs otherwise.
- B. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for all services provided by CONTRACTOR up to and including the date of termination, at the rates and within the payment periods set forth in this Agreement, less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as necessary to determine the reasonable value of the services rendered by CONTRACTOR. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

Upon the expiration or termination of this Agreement, and if requested by CONTRACTOR, the COUNTY may purchase CONTRACTOR's usable inventory of products and supplies. The purchase price for such inventory shall be CONTRACTOR's invoice cost.

20. HAZARDOUS SUBSTANCES; PRE-EXISTING CONDITIONS

CONTRACTOR has no duty to investigate, detect, prevent, handle, encapsulate, remove, or dispose of, and will have no responsibility to the COUNTY or others for any exposure of persons or property to, asbestos, lead, fuel storage tanks or contents, indoor air pollutants or contaminants, poor air quality, or hazardous, toxic, or regulated waste substances, mold, fungi, mildew, pollutants, or contaminants (collectively, the "Hazardous

Substances”) at the Facility or the surrounding premises. The COUNTY will comply with all applicable federal, state, and local laws and regulations, which have been or will be enacted during the term of this Agreement, regarding such Hazardous Substances on the COUNTY’s premises. The COUNTY will inform CONTRACTOR of the presence of such Hazardous Substances and acknowledges that CONTRACTOR employees will not be required to work in any location where they could be exposed to such Hazardous Substances. CONTRACTOR has advised the COUNTY that it does not provide or assume any responsibility to monitor or remediate mold, fungi, mildew, indoor air quality or any similar conditions, and that all determinations and corrective actions regarding mold, fungi, mildew, indoor air quality and any similar conditions shall be made by the COUNTY or a third party retained by the COUNTY. In no case will any CONTRACTOR employee act in the capacity of a “Designated Person” (within the meaning of the Asbestos Hazard Emergency Response Act, “AHERA”), which duties remain solely with the COUNTY.

21. SECTION HEADINGS

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

22. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

23. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

24. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

25. NO WAIVER OF DEFAULT

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

26. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

27. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

28. COMPLIANCE WITH LAW

CONTRACTOR shall, at its sole cost and expense, comply with all COUNTY, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

29. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the COUNTY of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara COUNTY, if in federal court.

30. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

31. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

32. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

33. PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

Agreement for Services of Independent CONTRACTOR between the COUNTY of Santa Barbara and ARAMARK CORRECTIONAL SERVICES, LLC.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato
COUNTY Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

By: _____
Deputy Clerk

By: _____
Peter Adam
Chair, Board of Supervisors

Date: _____

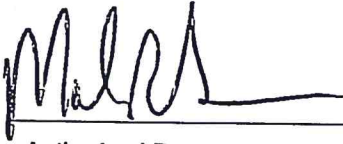
RECOMMENDED FOR APPROVAL:

Sheriff's Office

CONTRACTOR:

Aramark Correctional Services, LLC

By: 
BILL BROWN
Sheriff-Coroner

By: 
Authorized Representative

Name: Mark R. Adams

Title: Vice President Finance


APPROVED AS TO FORM:

Michael C. Ghizzoni
COUNTY Counsel

APPROVED AS TO ACCOUNTING FORM:

Theodore A. Fallati, CPA
Auditor-Controller

By: 
Deputy COUNTY Counsel

By: 
Deputy

APPROVED AS TO FORM:

Risk Management

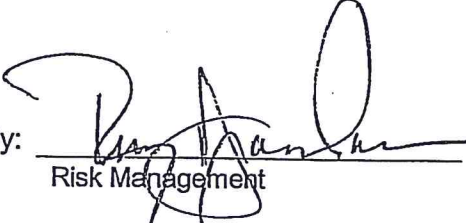
By: 
Risk Management

EXHIBIT A

STATEMENT OF WORK

I. The CONTRACTOR shall be responsible for the following:

- A. CONTRACTOR shall install such computer hardware and related equipment and software (collectively "Computer Equipment"), including but not limited to CONTRACTOR's CORE commissary management information systems (the "CORE System") as necessary to support CONTRACTOR's commissary operations. CONTRACTOR shall remove all Computer Equipment upon the expiration or termination of this Agreement. The CORE System is and shall at all times be owned by CONTRACTOR, which shall hold all rights relative thereto except as may be expressly granted hereunder and then only to the extent of such express grant. All use of the CORE System at the Facilities (as defined below) shall immediately cease upon the expiration or termination of this Agreement. CONTRACTOR shall be responsible to support and maintain all Computer Equipment during the term of this Agreement, but any and all such obligations shall cease upon the termination or expiration of this Agreement. To the extent that it is necessary for CONTRACTOR's or the COUNTY's employees to be trained to use the CORE System, CONTRACTOR shall provide such training, provided that CONTRACTOR shall have no other training obligations hereunder.
- B. The CONTRACTOR shall supply preprinted commissary order forms and price lists, collect completed order forms from a pre-determined location and scan/import all forms. The inmate must sign the completed order form; no unsigned forms shall be collected. The CONTRACTOR shall be responsible for updating the forms as changes are made to the items. The Sheriff's Office must be immediately advised of items that are out of stock, on back-order, changed/substituted or discontinued. The CONTRACTOR shall provide inventory and commissary order form storage and order filling and other commissary functions.
- C. The CONTRACTOR must provide delivery of commissary items to each housing unit located in the Main Jail and the Medium Security Facility in Santa Barbara and the Santa Maria Branch Jail and any other future facilities (the "Facilities"). Delivery of commissary is made to properly identified inmates and signatures must be obtained upon delivery. Verification of commissary delivery is done via wristband photo of the inmate and COUNTY Identification Number. It is the responsibility of the CONTRACTOR to ensure that commissary is delivered to the correct inmate.
- D. The CONTRACTOR will provide packages of basic need items to those inmates who are newly booked into jail. Those packages shall be referred to as Hygiene kits as designated by the COUNTY. These packages will include the following materials:
 1. One (1) short handle toothbrush;
 2. One (1) tube toothpaste;
 3. Two (2) soap bars;
 4. One (1) comb;
 5. One (1) short pencil; and
 6. *One (1) short handle disposable razor.

**Sheriff's Office staff issuing personal care items will ensure that an inmate who is considered a danger does not receive the disposable razor. The Sheriff's Office*

may change the contents of the Hygiene kit. Hygiene kits are provided to Santa Barbara COUNTY Sheriff's Office at no cost and is not a commissionable product.

The CONTRACTOR will provide packages for inmates deemed "indigent," and are identified as Welfare kits. These packages must include the follow products:

- 1) One (1) short handle toothbrush
- 2) One (1) toothpaste
- 3) One (1) soap bar
- 4) One (1) pencil
- 5) Two (2) stamped legal envelopes
- 6) Four (4) pages lined paper
- 7) *One (1) short handle disposable razor

**Sheriff's Office staff issuing personal care items will ensure that an inmate who is considered a danger does not receive the disposable razor. The Sheriff's Office may change the contents of the Welfare kit.*

Welfare kits shall be provided free of charge only to those inmates that have \$2.00 or less on their account. Those persons ordering a Welfare kit that have funds over the established indigent amount shall be charged a fee of \$2.00 and then they become a commissionable purchase.

- E. The CONTRACTOR must provide a full site manager and all employees necessary to ensure satisfactory performance of the services described in this Agreement. This will include, but not be limited to, personnel needed for order collection, order submittal, order filling, delivery, maintenance and service of equipment, and management of the program. All employees requiring access to Sheriff's Office facilities will be subject to a background investigation by the Sheriff's Office.
- F. The CONTRACTOR must offer postage stamps and pre-stamped envelopes sold at face value with no mark up.
- G. The CONTRACTOR must return to stock all undeliverable items.
 1. CONTRACTOR will provide a method of handling backorders and redelivery of orders for items that have been undeliverable. The CONTRACTOR shall re-deliver the order within a seven (7) day period and shall maintain a 95% or greater order delivery percentage. CONTRACTOR shall report delivery rate on a monthly basis.
 2. Released inmates shall have a seven (7) day period in which they can pick up undelivered, ordered commissary. CONTRACTOR holds the main responsibility for facilitating the pick-up of undelivered commissary.
 3. Credits shall be kept to a minimum.
- H. The CONTRACTOR shall provide, at its own cost, a way to communicate the list of all approved items, quantity and prices for commissary orders (i.e., pre-printed menu). The method of communicating the items to the inmates must have the capability to provide distinct options for the male inmates, female inmates, diabetic, Kosher, Low Sodium, Low Sugar, and indigent inmates. It must allow for disciplinary and housing restrictions on

products for orders. COUNTY may elect to limit amounts of product purchases for sale on commissary. Video instructions may be acceptable upon agreement with the Sheriff's Office.

- I. The CONTRACTOR shall be responsible for all costs for telephone service, faxing, copying, scanning and other office expenses associated with the Commissary operation.
- J. The CONTRACTOR shall work with the COUNTY Systems and Technology division in order to implement any technology related items. All systems must meet COUNTY standards.
- K. The CONTRACTOR shall provide an actual or exact copy of completed commissary order forms for the term of the Agreement and said form shall be accessible to the Sheriff's Office upon demand.
- L. The CONTRACTOR will allow each inmate the opportunity to purchase commissary items a minimum of one time per week.
- M. The CONTRACTOR shall have the ability to facilitate on-line (Web site purchases) commissary item ordering from friends and family members. All orders emanating from on-line purchases must be delivered to the inmate within five (5) business days of original order placement. The CONTRACTOR must maintain a 95% or greater delivery rate on these purchases.
- N. COUNTY shall manage inmate trust fund accounting. CONTRACTOR shall process orders for products from inmates. The COUNTY shall be responsible to collect, record and make disbursements from inmate trust accounts to commissary accounts for purchases of such products; provided, however, that CONTRACTOR shall have access to each inmate account for the purpose of verifying that there are sufficient funds in such account to cover an order placed by such inmate, including but not limited to, any sales, use or other taxes related thereto. The CONTRACTOR's Inmate Trust Accounting (CORE Banking System) system must have the ability to interface with the Sheriff's Office Jail Management System (JMS) and any future JMS system during the life of the contract, at the CONTRACTOR's expense. The jail currently contracts with Advanced Technology Information Management Systems (ATIMS) Law Enforcement Software Solutions. Training of all necessary Sheriff's Office personnel shall be provided by CONTRACTOR at no cost to the COUNTY, as specified by this Exhibit A.
- O. The CONTRACTOR shall have the ability to provide Special Event Bag ordering offered during key holidays, special events, and supplemental intake bags, as determined by COUNTY.
- P. The CONTRACTOR may, at the request of the Sheriff's Office, implement its Fresh Favorites program that provides take-out style food to inmates. The commission rate for Fresh Favorites program shall be established by Exhibit B.
- Q. All commissary equipment necessary for packaging and delivery of products will be supplied by the CONTRACTOR at the CONTRACTOR's expense. Title to such equipment shall remain with the CONTRACTOR. For the avoidance of doubt, the equipment under this Section shall not include the commissary equipment such as InfoLink kiosks purchased with the proceeds of the Financial Commitment (as defined below), title to which shall be held by the COUNTY as provided by Exhibit B.
- R. The CONTRACTOR must be able to deliver commissary on days identified by the Sheriff's Office, subject to change.
- S. The CONTRACTOR may provide an inmate email system available to all facilities. This is a one-way system where friends and family members can send email letters to inmates. The

CONTRACTOR shall be responsible for costs associated with interfacing with current and future Jail Management Systems and costs associated with color printers, ink, toner, and paper supplies for the term of the Agreement. CONTRACTOR shall be responsible for repairs, replacement and/or investigation of errors and customer complaints associated with the program.

- T. The CONTRACTOR shall, at a minimum, provide detailed weekly sales reports and products sold to inmates. Reports must be available in an electronic format that can be stored, printed and electronically transmitted. Monthly and Year-End Summary Reports: The CONTRACTOR shall submit Monthly and Year-End Summary reports as determined by the Sheriff's Office electronically in an exploitable format.
- U. Required monthly invoices, statements, and reports shall be sent to the COUNTY on or before the 20th day of the end of the month following commissary sales as provided by Exhibit B.
- V. The CONTRACTOR may, upon request of the Sheriff's Office, work with the current and any future inmate telephone provider to allow for the purchase of telephone debit minutes. A written agreement regarding the form and manner of how the associated taxes are to be collected and remitted must be in place. CONTRACTOR is responsible for obtaining all proper documentation from the inmate telephone provider. The Sheriff's Office currently contracts its inmate telephone services with ICSolutions, Inc. and utilizes the inmate telephone management services of Praeses, LLC. Praeses is the designated agent for the COUNTY for all inmate telephone related services.
- W. The CONTRACTOR shall not process commissary purchases to those inmates identified by the Sheriff's Office to be on a disciplinary status or when they may have lost their commissary privileges. This includes in-custody orders and web site purchases made by friends and family members.
- X. The CONTRACTOR shall provide, upon execution of the Agreement and at yearly anniversary dates, four (4) microwave ovens to the Sheriff's Office to be used as replacement ovens for inmate housing areas.
- Y. The CONTRACTOR shall provide a product sales and price list of approved items to the Sheriff's Office at the start of the contract and quarterly. A pricing review shall occur quarterly. Price changes are subject to COUNTY approval. New products may be added at any time by mutual agreement.
- Z. The CONTRACTOR shall provide mobile vending (CONNECT Mobile), point of sale capability to the inmate population which provides real-time accounting and purchase ability.
- AA. The CONTRACTOR shall implement a lobby and intake kiosks at the Santa Maria Branch Jail Facility and the Main Jail Facility. The CONTRACTOR shall install 25-30 InfoLink kiosks at the Facilities using the proceeds from the Financial Commitment, as provided by Exhibit B. The CONTRACTOR may, at the request of the Sheriff's Office, install additional kiosks at any future facilities that the COUNTY may have in the future, on the terms and conditions additionally agreed by the parties. The kiosks shall be supplied by the CONTRACTOR at no cost to the COUNTY. Fee amounts assessed for making deposits and using such kiosks shall be approved by COUNTY.
- BB. The CONTRACTOR may, at the request of the COUNTY, implement a tablet kiosk system for inmate housing units, on the terms and conditions additionally agreed by the parties.

CC. The CONTRACTOR may, at the request of the COUNTY, provide debit release cards, on the terms and conditions additionally agreed by the parties.

DD. CONTRACTOR may not substitute the CONTRACTOR'S on-site manager performing services under this Agreement without the prior written approval of COUNTY's designated representative, if the reason for such substitution is within the CONTRACTOR's control. Any replacement management will be subject to COUNTY'S security procedures and clearances.

II. The COUNTY shall be responsible for the following:

- A. The COUNTY shall provide a separate security screening process on all CONTRACTOR employees and has the sole authority to permit and/or restrict security clearances for jail facilities.
- B. The County shall have sole approval of all vendor employee access. County reserves the right to revoke security access at any time.
- C. The COUNTY shall provide Security and PREA training sessions prior to all CONTRACTOR employees assuming employment opportunities with CONTRACTOR.
- D. The COUNTY shall provide unescorted access of the custodial Facilities to the CONTRACTORs on-site manager. Unescorted access to the custodial facilities for other CONTRACTOR's employees performing services under the Agreement shall be determined on a case-by-case basis, provided that such employees obtained security clearances and completed training as required by the COUNTY.
- E. The COUNTY shall provide adequate ingress and egress to all commissary delivery areas upon approval of security clearance and attendance at the Security and PREA training session.
- F. The COUNTY shall work with CONTRACTOR on all technology-based enterprises that the COUNTY determines may be implemented in custodial facilities.
- G. COUNTY shall provide CONTRACTOR with adequate office and storage facilities at the Facility. The COUNTY shall furnish building maintenance services for the Facilities and shall provide preventive maintenance and equipment repairs and replacements for any COUNTY-owned equipment.

EXHIBIT B

COMPENSATION AND FINANCIAL ARRANGEMENTS

1. CONTRACTOR shall pay COUNTY 45% commission on all Product Net Sales generated by and through the sale of commissary items from all sources under this Agreement, except Fresh Favorites, in accordance with the terms of this EXHIBIT B. "Product Net Sales" means total commissary items sales (excluding Fresh Favorites, all sales of tobacco products, stamps and pre-stamped envelopes, pre-paid telephone calling cards or any other telephone sales, debit cards, and Welfare Kits) less sales or use taxes and authorized returns.

CONTRACTOR shall pay COUNTY 35% commission on all Fresh Favorites Net Sales generated by and through the sale of Fresh Favorites if implemented. "Fresh Favorites Net Sales" for purposes of this Paragraph means total Fresh Favorites items sales less sales or use taxes and authorized returns.

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 seven (7) days after release, the product shall become the property of the COUNTY.

For the period of May 17, 2016 to April 30, 2017 ("Initial Period"), CONTRACTOR shall pay to COUNTY the greater of: a) commission on Product Net Sales (as defined above) at the rates established by this Exhibit B (collectively, "Total Commissions"); or b) a minimum guaranteed payment of \$450,000.00 to COUNTY for this period ("Minimum Annual Guarantee"). The Minimum Annual Guarantee is contingent upon the installation, activation and ongoing implementation of CONTRACTOR's iCare, GOCart, Retail Promotions, and TouchPay programs during the Initial Period and thereafter. "Retail Promotion" includes, certain discounts, promotional items, holiday promotions, and new item introductions to inmates.

If the amount of the Total Commissions payable by CONTRACTOR to COUNTY for the Initial Period is less than Minimum Annual Guarantee amount, CONTRACTOR shall pay to COUNTY the difference between Total Commissions and Minimum Annual Guarantee within 45 days from the end of the Initial Period.

The amount of Minimum Annual Guarantee shall be re-negotiated yearly at contract anniversary for each successive year of the Agreement.

2. In addition to commissions, CONTRACTOR shall pay COUNTY a monthly utilization fee of \$1250.00 for on-site storage and packaging of commissary goods, as provided by Exhibit A.
3. In the event CONTRACTOR implements any fees, price changes and/or charges for commissary goods without the COUNTY's express written consent, the CONTRACTOR shall, within 30 days, refund each purchasing party and/or inmate for any unapproved additional fees, price changes and/or charges from the date the fees, changes and/or charges were implemented until the date the fees, changes and/or charges are discontinued. Discrepancies must be resolved to reasonable satisfaction of CONTRACTOR and COUNTY. CONTRACTOR's failure to provide refunds to purchasing parties and/or inmates within 30 days may result in a fine of \$350.00 per day if CONTRACTOR fails to provide such refunds within 30 days from the date of the COUNTY's written notice. The fine per day shall be effective starting on day 31 after the date of the COUNTY's written notice until resolution of discrepancies.

4. CONTRACTOR may, at the request of the COUNTY, utilize the inmate telephone provider for commissary ordering services at CONTRACTOR'S expense. This would allow inmates to select/order commissary items via telephone. CONTRACTOR shall work with Inmate Telephone provider to facilitate this service and shall provide payment, if required, to the inmate telephone provider. No expenses for this function shall be assessed to the inmate ordering commissary items.
5. Weekly reports are due by the end of each sales week. Additionally, the required monthly reports shall be received by the County by the 20th day of the month following the commissary sales.
6. Within 20 days of the end of the month following the commissary sales, CONTRACTOR shall submit a monthly invoice to COUNTY for Gross Sales (as defined below) made during the immediately preceding month, together with any additional services provided during such month, less amounts due to COUNTY as follows: a) amounts of commissions for Product Net Sales, calculated in accordance with Exhibit B; b) amounts of commissions for Fresh Favorites Net Sales, calculated in accordance with Exhibit B; c) amounts of monthly utilization fee payable to COUNTY in accordance with Exhibit B. The term "Gross Sales" shall mean total commissary sales (including, but not limited to, sales of tobacco products, stamps and pre-stamped envelopes, pre-paid telephone calling cards or any other telephone sales, debit cards, and Welfare Kits sales) plus any sales or use taxes. Payment shall be made by check payable to ARAMARK Correctional Services, LLC within thirty (30) days after the invoice date. Such payment shall be sent to:

ARAMARK Correctional Services, LLC
Aramark Chicago Lockbox
27310 Network Place
Chicago, IL 60673-1273

7. COUNTY'S failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY'S right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.
8. **Financial Commitment:** CONTRACTOR shall make a financial commitment to COUNTY in an amount up to \$185,000.00 (the "Financial Commitment") which shall fund procurement and installation of the InfoLink kiosks by CONTRACTOR, as provided by Exhibit Any equipment purchased by CONTRACTOR on COUNTY'S behalf shall be purchased as a "sale-for resale" to the COUNTY. COUNTY shall hold title to all such equipment (with the exception of those items which bear the name of CONTRACTOR, its logo, or any of its logo, service marks or trademarks or any logo, service marks or trademarks of a third party) upon such resale. COUNTY acknowledges that it is a tax-exempt entity and will provide CONTRACTOR with a copy of the appropriate tax-exempt certificate. The Financial Commitment shall be amortized on a straight-line basis over a period of five years, commencing upon the effective date of this Agreement. If the Agreement expires or is terminated by either party for any reason other than by COUNTY in accordance with Section 19.A.3 of this Agreement prior to the complete amortization of the Financial Commitment, COUNTY shall reimburse CONTRACTOR for the unamortized balance of the Financial Commitment as of the date of such expiration or termination.
9. The financial arrangements in this Agreement are contingent upon (a) CONTRACTOR being the exclusive commissary service provider to the Facilities and (b) the installation, activation and implementation of CONTRACTOR'S iCare, GOCart, Retail Promotions, TouchPay, programs as agreed by the parties, and are based on conditions existing as of the Effective Date including any representations regarding existing and future conditions made by COUNTY in connection with the negotiation and execution of this Agreement. If such conditions change due to causes beyond CONTRACTOR'S control, including, but not limited to, a change in the scope of CONTRACTOR'S services; a decrease in the Facility's inmate population; efforts to organize

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, then CONTRACTOR shall give COUNTY written notice of such increase or change, and within thirty (30) calendar days after such notice, CONTRACTOR and COUNTY shall mutually agree upon modification(s) to offset the impact of the increase or change, which modifications may include any or a combination of the following: an adjustment to CONTRACTOR's prices or commission, modifications to the product offerings and/or pricing, or modifications to CONTRACTOR's scope of services.

EXHIBIT C
Indemnification and Insurance Requirements
(For Service Contracts Not Requiring Professional Liability Insurance)

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
6. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement.
7. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
8. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
9. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.