

CONTRACT BETWEEN
THE DEPARTMENT OF CORRECTIONS
AND

HEALTHCARE CONSULTANTS OF CENTRAL FLORIDA, INC.
d/b/a HEALTHCARE CONSULTANTS PHARMACY STAFFING

This Contract is between the Florida Department of Corrections ("Department") and Healthcare Consultants of Central Florida, Inc. d/b/a Healthcare Consultants Pharmacy Staffing ("Contractor") which are the parties hereto.

WITNESSETH

Whereas, the Department is responsible for the inmates and for the operation of, and supervisory and protective care, custody and control of, all buildings, grounds, property and matters connected with the correctional system in accordance with Section 945.04, Florida Statutes;

Whereas, it is necessary that budget resources be allocated effectively;

Whereas, this Contract is entered into pursuant to Section 287.057(5)(f)6., Florida Statutes, which authorizes health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration to be procured without receipt of sealed competitive bids or competitive sealed proposals; and

Whereas, the Contractor is a qualified and willing participant with the Department to provide relief coverage for pharmacists and pharmacy technicians to the Department's institutions.

Therefore, in consideration of the mutual benefits to be derived hereby, the Department and the Contractor do hereby agree as follows:

I. CONTRACT TERM AND RENEWAL

A. Contract Term

This Contract shall begin on February 1, 2008, or the date on which it is signed by both parties, whichever is later, and shall end at midnight on January 31, 2011. In the event this Contract is signed by the parties on different dates, the latter date shall control.

B. Contract Renewal

This Contract may not be renewed.

II. SCOPE OF SERVICE

A. General Service Description/Purpose

The Contractor shall provide relief coverage consisting of licensed, qualified Pharmacists and Pharmacy Technicians as described in Chapter 465, Florida Statutes, to perform duties as required and described in Section E. Contractor's Responsibilities, of this Contract.

B. Rules and Regulations

The Contractor shall ensure that all Contractor's staff providing services pursuant to this Contract (hereinafter referred to as "Contractor's staff") and that the delivery of services under this Contract comply with prevailing ethical and professional standards, Department rules and procedures including the Department's Health Services' Bulletins/Technical Instructions and memoranda, and all applicable state and federal laws, rules and regulations.

The Contractor shall ensure Contractor's staff is familiar with and capable of obtaining and making use of all applicable Department Policies and Procedures, Technical Instructions (TI's), and Health Service Bulletins (HSB's).

C. Communications

Contract communications will be in three (3) forms: routine, informal, and formal. For the purposes of this Contract, the following definitions shall apply:

Routine: All normal written communications generated by either party relating to service delivery. Routine communications must be acknowledged or answered within thirty (30) calendar days of receipt.

Informal: Special written communications deemed necessary based upon either contract compliance or quality of service issues. Must be acknowledged or responded to within fifteen (15) calendar days of receipt.

Formal: Same as informal but more limited in nature and usually reserved for significant issues such as Breach of Contract, failure to provide satisfactory performance, or contract termination. Formal communications shall also include requests for changes in the scope of the Contract and billing adjustments. Must be acknowledged upon receipt and responded to within seven (7) days of receipt.

The Contractor shall respond to informal and formal communications in writing, transmitted by facsimile and/or email, with follow-up by hard copy mail.

A date/numbering system shall be utilized for tracking of formal and informal communications.

The only personnel authorized to use formal Contract communications are the Department's Director of Health Services-Administration, Contract Manager, Contract Administrator, and the Contractor's CEO or Contractor's Representative. Designees or other persons authorized to utilize formal Contract communications must be agreed upon by both parties and identified in writing within ten (10) days of execution of the Contract. Notification of any subsequent changes must be provided in writing prior to issuance of any formal communication from the changed designee or authorized representative.

In addition to the personnel named under formal Contract communications, personnel authorized to use informal Contract communications include any other persons so designated in writing by the parties.

In addition to the Contract communications noted in Section II., C., in this Contract, if there is an urgent administrative problem or urgent clinical issue the Department shall make contact with the Contractor and the Contractor shall orally respond to the Contract Manager within two (2) hours. If a non-urgent administrative problem occurs, the Department will make contact with the Contractor and the Contractor shall orally respond to the Contract Manager within forty eight (48) hours. The Contractor or Contractor's designee at each institution shall respond to inquiries from the Department by providing all information or records that the Department deems necessary to respond to inquiries, complaints, or grievances from or about inmates within three (3) working days of receipt of the request unless the request requires immediate response due to a medical emergency. The Healthcare Contract Monitor shall be copied on all such correspondence.

D. Medical Records and Documentation

The Contractor shall ensure that Contractor's staff documents each healthcare encounter in the appropriate inmate's medical record, in accordance with the Department's approved policies, procedures and/or documentation method, using appropriate Department of Corrections' forms.

All documentation shall comply with applicable Florida Statutes, relevant sections of the Florida Administrative Code, pertinent Department Procedures, and Health Services' Bulletins/Technical Instructions.

E. Contractor's Responsibilities

1. Upon request by the Department, the Contractor shall provide qualified Pharmacists who shall possess a current valid Florida Pharmacist's license in accordance with Chapter 465, Florida Statutes.

Pharmacists shall:

- a. perform all pharmacy-related duties in strict compliance with applicable Florida Statutes, Florida Board of Pharmacy Rules, Federal Drug Enforcement Administration Rules, and Department Policies and Procedures;
- b. prepare and dispense drugs after receiving a written order from a practitioner authorized by state law to prescribe drugs. Verbal orders from an authorized practitioner over the telephone may be taken by the pharmacist and immediately reduced to writing if time does not permit a written order to be delivered to the pharmacy;
- c. initial the prescription filled by the Pharmacy Technician;
- d. authorize and direct the supervision of pharmacy personnel to make labeling changes on transfer medication from one container to another;

- e. directly supervise and conduct in-process and final checks, and affix his/her initials to the record of prepackaging and labeling of unit and multiple dose packages; and
 - f. assist with other tasks as directed by the Pharmacy Manager or his/her designee.
2. Upon request by the Department, the Contractor shall provide qualified Pharmacy Technicians who shall perform services under the direct and immediate supervision of a licensed Pharmacist.

Pharmacy Technicians shall:

- a. assist the Pharmacist in the preparation of the prescription. Such functions include the typing of prescription labels on a typewriter or computer and the entry of prescription information or physician's orders into a computer system. The Pharmacy Technicians shall not complete the dispensing act or initial the prescription;
- b. prepackage and label unit and multiple dose packages pursuant to appropriate procedures;
- c. maintain the control records;
- d. prepare orders for shipping including but not limited to the checking of shipping lists to make sure all listed orders are placed in the containers for shipping to facilities; and
- e. assist with other tasks as directed by the Pharmacy Manager or his/her designee.

F. Department's Responsibilities

- 1. The Department will provide, at its expense and judgment, a sufficient number of Correctional Officers to supervise those inmates receiving services from the Contractor.
- 2. The Department will provide the Contractor with access to all applicable Department rules and regulations. The Department will inform the Contractor of any regulatory or operational changes impacting the delivery of services to be provided pursuant to this Contract.
- 3. The Department shall ensure that any inmate receiving treatment pursuant to this Contract is appropriately restrained, in accordance with the Department's procedures, at the time treatment is rendered and that such restraints shall not be removed during treatment unless the inmate's health or safety is immediately threatened or removal or repositioning of the restraints is needed to insure provision of clinically indicated treatment or diagnostic evaluation. Metallic restraints will be utilized unless the treatment or procedure dictates the use of non-metallic restraints. Correctional staff shall have sole discretion to determine whether restraints are to be removed or repositioned.

G. Contractor's Requirements

1. Conduct and Safety Requirements

When providing services to the inmate population or in a correctional setting, the Contractor's staff shall adhere to the standards of conduct prescribed in Chapter 33-208, Florida Administrative Code, and as prescribed in the Department's personnel policy and procedure guidelines, particularly rules of conduct, employee uniform and clothing requirements (as applicable), security procedures, and any other applicable rules, regulations, policies and procedures of the Department.

By execution of this Contract, the Contractor acknowledges and accepts, for itself and any of its agents, that all or some of the services to be provided under this Contract shall be provided in a correctional setting with direct and/or indirect contact with the inmate population and that there are inherent risks associated therewith.

In addition, the Contractor shall ensure that all staff adhere to the following requirements:

- a. The Contractor's staff shall not display favoritism to, or preferential treatment of, one inmate or group of inmates over another.
- b. The Contractor's staff shall not deal with any inmate except in a relationship that supports services under this Contract. Specifically, staff members must never accept for themselves or any member of their family, any personal (tangible or intangible) gift, favor, or service from an inmate or an inmate's family or close associate, no matter how trivial the gift or service may seem. The Contractor shall report to the Contract Manager any violations or attempted violation of these restrictions. In addition, no staff member shall give any gifts, favors or services to inmates, their family or close associates.
- c. The Contractor's staff shall not enter into any business relationship with inmates or their families (example – selling, buying or trading personal property), or personally employ them in any capacity.
- d. The Contractor's staff shall not have outside contact (other than incidental contact) with an inmate being served or their family or close associates, except for those activities that are to be rendered under the Contract.
- e. The Contractor's staff shall not engage in any conduct which is criminal in nature or which would bring discredit upon the Contractor or the State. In providing services pursuant to this Contract, the Contractor shall ensure that its employees avoid both misconduct and the appearance of misconduct.
- f. At no time shall the Contractor or Contractor's staff, while delivering services under this Contract, wear clothing that resembles or could reasonably be mistaken for an inmate's uniform or any correctional officer's uniform or that bears the logo or other identifying words or symbol of any law enforcement or correctional department or agency.
- g. Any violation or attempted violation of the restrictions referred to in this section regarding employee conduct shall be reported by phone and in writing to the

Contract Manager or their designee, including proposed action to be taken by the Contractor. Any failure to report a violation or take appropriate disciplinary action against the offending party or parties shall subject the Contractor to appropriate action, up to and including termination of this Contract.

- h. The Contractor shall report any incident described above, or requiring investigation by the Contractor, in writing, to the Contract Manager or their designee within twenty four (24) hours, of the Contractor's knowledge of the incident.

2. Staff Levels and Qualifications

- a. The Contractor shall provide an adequate level of staffing for provision of the services outlined herein and shall ensure that staff providing services is highly trained and qualified. Additionally, the contractor shall liaise with and maintain a good working relationship with the judiciary, criminal justice system, DC staff, and the community if required to support the Contract.
- b. The Contractor shall NOT provide individuals possessing "temporary work visas" to fill positions under this scope of service.
- c. All contractor/subcontractor staff providing services under the Contract shall have the ability to understand and speak English to allow for effective communication between Contractor staff and Department staff and inmates.

3. Background/Criminal Record Checks

- a. The Contractors' staff assigned to this Contract shall be subject, at the Department's discretion and expense, to a Florida Department of Law Enforcement (FDLE) Florida Crime Information Center/National Crime Information Center (FCIC/NCIC) background/criminal records check. This background check will be conducted by the Department and may occur or re-occur at any time during the Contract period. The Department has full discretion to require the Contractor to disqualify, prevent, or remove any staff from any work under the Contract. The Department is under no obligation to inform the Contractor of the records check findings or the criteria for disqualification or removal. In order to carry out this records check, the Contractor shall provide, upon request, the following data for any individual Contractor or subcontractor's staff assigned to the Contract: Full Name, Race, Gender, Date of Birth, Social Security Number, Driver's License Number and State of Issue. If requested, the Contractor's staff shall submit to fingerprinting by the Department of Corrections for submission to the Federal Bureau of Investigation (FBI). The Contractor shall not consider new employees to be on permanent status until a favorable report is received by the Department from the FBI.
- b. The Contractor shall ensure that the Contract Manager or designee is provided the information needed to have the NCIC/FCIC background check conducted prior to any new Contractor staff being hired or assigned to work under the contract. The Contractor shall not offer employment to any individual or assign any individual to work under the contract, who has not had an NCIC/FCIC background check conducted.
- c. The Contractor shall not permit any individual to provide services under this Contract who is under supervision or jurisdiction of any parole, probation or

correctional authority. Persons under any such supervision may work for other elements of the Contractor's agency that are independent of the contracted services.

- d. Note that a felony or first-degree misdemeanor conviction, a plea of guilty or nolo contendere to a felony or first-degree misdemeanor crime, or adjudication of guilt withheld to a felony or first-degree misdemeanor crime does not automatically bar the Contractor from hiring the proposed employee. However, the Department reserves the right to prior approval in such cases. Generally, two (2) years with no criminal history is preferred. The Contractor shall make full written report to the Contract Manager within three (3) calendar days whenever an employee has a criminal charge filed against them, or an arrest, or receives a Notice to Appear for violation of any criminal law involving a misdemeanor, or felony, or ordinance (except minor violations for which the fine or bond forfeiture is \$200 or less) or when Contractor or Contractor's staff has knowledge of any violation of the laws, rules, directives or procedures of the Department.
- e. No person who has been barred from any Department institution or other facility shall provide services under this Contract.
- f. Department employees terminated at any time by the Department for cause may not be employed or provide services under the Contract.
- g. No person who has previously been employed by the Department may be assigned to provide services pursuant to this Contract without the prior written approval of the Department's Contract Manager.

4. Orientation and Training

The Contractor shall ensure Contractor's staff performing services under this Contract at institutional sites receives orientation and training applicable to their position and level of responsibility at each institution. Both the Department's and the Contractor's responsibilities with respect to orientation and training are listed below.

- a. The Department will determine what type and duration of orientation and training is appropriate for the Contractor's staff. This orientation and training will be provided at the Department's expense.
- b. The Department will compensate the Contractor for Contractor's staff attending orientation and training **provided on-site** by the Department at the rates indicated in Section III, A. Payment, 2.
- c. The Contractor shall coordinate with designated Department staff at each institution the administration and scheduling of the Contractor's staff's orientation and training.
- d. The Contractor shall, at the Contractor's expense, track and document all orientation and training as indicated above. Documentation shall be provided to the Department's Contract Manager upon request.

5. TB Screening/Testing

The Contractor shall ensure Contractor's staff performing services under this Contract at institutional sites is screened and/or tested for tuberculosis prior to the start of service

delivery, as appropriate, and screened/tested annually thereafter, as required by Department Procedure 401.015, Employee Tuberculosis Screening And Control Program. The Contractor shall provide the institutional Senior Registered Nurse Supervisor with proof of testing prior to the start of service delivery by the staff member and annually thereafter. The Contractor shall be responsible for obtaining the TB screening/testing. The Contractor shall bear all costs associated with the TB screening/testing for their staff or subcontractor staff.

H. Monitoring and Evaluation Methodology

The Department's Contract Manager or designated Department's staff, will perform monitoring during the term of the Contract, but not less than once a year to ensure Contract compliance. Monitoring shall include periodic review of compliance with contract service delivery and review of contract requirements. The Department reserves the right for any Department staff to make scheduled or unscheduled, announced or unannounced monitoring visits at any site where services are delivered pursuant to this Contract.

The Contract Manager will provide a written monitoring report to the Contractor within three (3) weeks of the monitoring visit.

When issues of non-compliance are identified in the monitoring report, a written Corrective Action Plan (CAP) will be required of the Contractor. The CAP is to be submitted to the Contract Manager within ten (10) days of receipt of the monitoring report. If necessary, a follow-up monitoring visit will be scheduled by the Contract Manager, and will occur within thirty (30) days of the original monitoring visit, at which time full compliance must be met. Failure to correct deficiencies after thirty (30) days from the date-of-receipt of a written monitoring report notating the deficiencies may result in determination of breach of Contract and termination of services.

I. Deliverables

Deliverables for the purposes of this Contract are identified in Section II., E., Contractor's Responsibilities.

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III. COMPENSATION

A. Payment

1. The Department will compensate the Contractor for services, to include orientation and training, as specified in Section II, Scope of Service, as delineated below:

<u>Hourly Rates for each Contract Year</u>			
	✓ All Inclusive ✓ All Shifts		
Healthcare Provider	Contract Year		
	February 1, 2008 – January 31, 2009	February 1, 2009 – January 31, 2010	February 1, 2010 – January 31, 2011
Pharmacist (with or without oncology experience)	\$63.00	\$65.00	\$67.00
Pharmacy Technician	\$28.00	\$30.00	\$32.00

2. The Department will compensate the Contractor for orientation and training, as specified in Section II, Scope of Service, at the rate of one-half (½) the hourly rate for the first eight (8) hours of initial assignment.

B. MyFloridaMarketPlace Transaction Fee

The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System (“System”). Pursuant to Section 287.057(23), Florida Statutes, all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State, unless otherwise exempt pursuant to Rule 60A-1.032, F.A.C.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

The Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor’s failure to perform or comply with specifications or requirements of the agreement.

Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering reprocurement costs from the Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES SHALL BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**

C. Submission of Invoice(s)

The Contractor agrees to submit invoices for compensation for services in detail sufficient for a proper pre-audit and post-audit thereof. The Contractor shall submit invoices

pertaining to this Contract to the Institutional Health Services Administrator at the institution from which the inmate patient was referred. The Contract Manager shall provide the Contractor with a list of the names and addresses of the Institutional Health Services Administrators by institution. Invoices will be reviewed and approved by the Institutional Health Services Administrator and then forwarded to the appropriate Regional Financial Services' Office.

D. Official Payee

The name and address of the official payee to whom payment shall be made is as follows:

Healthcare Consultants of Central Florida, Inc.
d/b/a Healthcare Consultants Pharmacy Staffing
P. O. Box 915726
Longwood, FL 32791-5726

E. Travel Expenses

The Department shall not be responsible for the payment of any travel expense for the Contractor that occurs as a result of this Contract.

F. Contractor's Expenses

The Contractor shall pay for all licenses, permits, and inspection fees or similar charges required for this Contract, and shall comply with all laws, ordinances, regulations, and any other requirements applicable to the work to be performed under this Contract.

G. Annual Appropriation

The State of Florida's and the Department's performances and obligations to pay for services under this Contract are contingent upon an annual appropriation by the Legislature. The costs of services paid under any other Contract or from any other source are not eligible for reimbursement under this Contract.

H. Tax Exemption

The Department agrees to pay for contracted services according to the conditions of this Contract. The State of Florida does not pay federal excise taxes and sales tax on direct purchases of services.

I. Timeframes for Payment and Interest Penalties

Contractors providing goods and services to the Department should be aware of the following time frames:

1. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services and associated invoice, unless the ITB or RFP specifications, or this Contract specifies otherwise. The Department has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

2. If a payment is not available within forty (40) days, a separate interest penalty, as specified in Section 215.422, Florida Statutes, will be due and payable, in addition to the invoice amount, to the Contractor. The interest penalty provision applies after a thirty-five (35) day time period to health care contractors, as defined by rule. Interest penalties of less than one (1) dollar will not be enforced unless the Contractor requests payment. Invoices, which have to be returned to a Contractor because of Contractor preparation errors, may cause a delay of the payment. The invoice payment requirements do not start until the Department receives a properly completed invoice.

J. Final Invoice

The Contractor shall submit the final invoice for payment to the Department no more than forty-five (45) days after acceptance of the final deliverable by the Department or the end date of this Contract, whichever occurs last. If the Contractor fails to do so, all right to payment is forfeited, and the Department will not honor any request submitted after aforesaid time period. Any payment due under the terms of the Contract may be withheld until all applicable deliverables and invoices have been accepted and approved by the Department.

K. Vendor Ombudsman

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted by calling the Department of Financial Services' Toll Free Hotline.

IV. CONTRACT MANAGEMENT

A. Department's Contract Manager

The Contract Manager for this Contract will be:

Michelle Kimutis, Pharmacy Manager
Florida Department of Corrections
Lowell Correctional Institution
11120 N.W. Gainesville Road
Ocala, Florida 34482-1479
Telephone: (352) 401-5385
Fax: (352) 401-5383
Email: Kimutis.Michelle@mail.dc.state.fl.us

The Contract Manager will perform the following functions:

1. maintain a contract management file;
2. serve as the liaison between the Department and the Contractor;
3. evaluate the Contractor's performance;

4. direct the Contract Administrator to process all amendments, renewals, and termination of this Contract; and
5. evaluate Contractor performance upon completion of the overall Contract; this evaluation will be placed on file and will be considered if the Contract is subsequently used as a reference in future procurements.

The Contract Manager may delegate the following functions to Local Contract Coordinators:

1. verify receipt of deliverables from the Contractor;
2. monitor the Contractor's performance; and
3. review, verify, and approve invoices from the Contractor.

B. Department's Contract Administrator

The Contract Administrator for this Contract will be:

Lisa M. Bassett, Chief
Bureau of Procurement & Supply
Department of Corrections
2601 Blair Stone Road
Tallahassee, Florida 32399-2500
Telephone: (850) 488-6671
Fax: (850) 922-5330
Email: bassett.lisa@mail.dc.state.fl.us

The Contract Administrator will perform the following functions:

1. maintain the Contract administration file;
2. process all Contract amendments, renewals, and termination of the Contract; and
3. maintain the official records of all formal correspondence between the Department and the Contractor.

C. Contractor's Representative

The name, title, address, and telephone number of the Contractor's representative responsible for administration and performance under this Contract is:

Robert S. Miller, RPh, CPh, President
Healthcare Consultants of Central Florida, Inc.
d/b/a Healthcare Consultants Pharmacy Staffing
181 Sabal Palm Drive, Unit 101
Longwood, Florida 32779
Telephone: (800) 642-1652
Fax: (800) 439-4160
Email: bob@hccpharmacysolutions.com

D. Contract Management Changes

After execution of this Contract, any changes in the information contained in Section IV., Contract Management, will be provided to the other party in writing and a copy of the written notification shall be maintained in the official Contract record.

V. **CONTRACT MODIFICATION**

Unless otherwise stated herein, modifications to the provisions of this Contract, with the exception of Section III., C., Submission of Invoice(s) and Section IV., Contract Management, shall be valid only through execution of a formal Contract amendment.

VI. **TERMINATION**

A. Termination at Will

This Contract may be terminated by either party upon no less than thirty (30) calendar days' notice, without cause, unless a lesser time is mutually agreed upon by both parties. Notice shall be delivered by certified mail (return receipt requested), in-person with proof of delivery, or by another method of delivery whereby an original signature is obtained.

B. Termination Because of Lack of Funds

In the event funds to finance this Contract become unavailable, the Department may terminate the Contract upon no less than twenty-four (24) hours' notice in writing to the Contractor. Notice shall be delivered by certified mail (return receipt requested), in-person with proof of delivery, or by another method of delivery whereby an original signature is obtained. The Department shall be the final authority as to the availability of funds.

C. Termination for Cause

If a breach of this Contract occurs by the Contractor, the Department may, by written notice to the Contractor, terminate this Contract upon twenty-four (24) hours' notice. Notice shall be delivered by certified mail (return receipt requested), in-person with proof of delivery, or by another method of delivery whereby an original signature is obtained. If applicable, the Department may employ the default provisions in Chapter 60A-1, Florida Administrative Code. The provisions herein do not limit the Department's right to remedies at law or to damages.

D. Termination for Unauthorized Employment

Violation of the provisions of Section 274A of the Immigration and Nationality Act shall be grounds for unilateral cancellation of this Contract.

VII. CONDITIONS

A. Records

1. Public Records Law

The Contractor agrees to allow the Department and the public access to any documents, papers, letters, or other materials subject to the provisions of Chapters 119 and 945.10, Florida Statutes, made or received by the Contractor in conjunction with this Contract. The Contractor’s refusal to comply with this provision shall constitute sufficient cause for termination of this Contract.

2. Audit Records

a. The Contractor agrees to maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the Department under this Contract, and agrees to provide a financial and compliance audit to the Department or to the Office of the Auditor General and to ensure that all related party transactions are disclosed to the auditor.

b. The Contractor agrees to include all record-keeping requirements in all subcontracts and assignments related to this Contract.

3. Retention of Records

The Contractor agrees to retain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertaining to this Contract for a period of seven (7) years. The Contractor shall maintain complete and accurate record-keeping and documentation as required by the Department and the terms of this Contract. Copies of all records and documents shall be made available for the Department upon request. All invoices and documentation must be clear and legible for audit purposes. All documents must be retained by the Contractor at the address listed in Section IV., C., Contractor’s Representative or the address listed in Section III., D., Official Payee, for the duration of this Contract. Any records not available at the time of an audit will be deemed unavailable for audit purposes. Violations will be noted and forwarded to the Department’s Inspector General for review. All documents must be retained by the Contractor at the Contractor’s primary place of business for a period of seven (7) years following termination of the Contract, or, if an audit has been initiated and audit findings have not been resolved at the end of seven (7) years, the records shall be retained until resolution of the audit findings. The Contractor shall cooperate with the Department to facilitate the duplication and transfer of any said records or documents during the required retention period. The Contractor shall advise the Department of the location of all records pertaining to this Contract and shall notify the Department by certified mail within ten (10) days if/when the records are moved to a new location.

B. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (“PRIDE”)

The Contractor agrees that any articles, which are the subject of or are required to carry out this Contract, shall be purchased from PRIDE, identified under Chapter 946, Florida

Statutes, in the same manner and under the procedures set forth in Sections 946.515(2) and (4), Florida Statutes. The Contractor shall be deemed to be substituted for the Department in dealing with PRIDE, for the purposes of this Contract. This clause is not applicable to subcontractors, unless otherwise required by law. Available products, pricing, and delivery schedules may be obtained by contacting PRIDE.

C. Products Available from the Blind or Other Handicapped (RESPECT)

The State/Department supports and encourages the gainful employment of citizens with disabilities. It is expressly understood and agreed that any articles, that are the subject of or required to carry out this contract, shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for this agency insofar as dealings with such qualified nonprofit agency are concerned. Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

If applicable, the Contractor shall submit a plan describing how it will address the use of RESPECT in offering the items bid.

D. Procurement of Materials with Recycled Content

It is expressly understood and agreed that any products or materials, which are the subject of or are required to carry out this Contract, shall be procured in accordance with the provisions of Sections 403.7065 and 287.045, Florida Statutes.

E. Sponsorship

If the Contractor is a nongovernmental organization which sponsors a program financed partially by State funds, including any funds obtained through this Contract, it shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by Healthcare Consultants of Central Florida, Inc. d/b/a Healthcare Consultants Pharmacy Staffing and the State of Florida, Department of Corrections." If the sponsorship reference is in written material, the words "State of Florida, Department of Corrections" shall appear in the same size letters or type as the name of the organization.

F. Employment of Department Personnel

The Contractor shall not knowingly engage in this project, on a full-time, part-time, or other basis during the period of this Contract, any current or former employee of the Department where such employment conflicts with Section 112.3185, Florida Statutes.

G. Non-Discrimination

No person, on the grounds of race, creed, color, national origin, age, gender, marital status, or disability, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to discrimination in the performance of this Contract.

H. Americans with Disabilities Act

The Contractor shall comply with the Americans with Disabilities Act. In the event of the Contractor's noncompliance with the nondiscrimination clauses, the Americans with Disabilities Act, or with any other such rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Contracts.

I. Indemnification for Contractors Acting as an Agent of the State

The Contractor shall be liable, and agrees to be liable for, and shall indemnify, defend, and hold the Department, its employees, agents, officers, heirs, and assignees harmless from any and all claims, suits, judgments, or damages including court costs and attorney's fees arising out of intentional acts, negligence, or omissions by the Contractor, or its employees or agents, in the course of the operations of this Contract, including any claims or actions brought under Title 42 USC §1983, the Civil Rights Act, up to the limits of liability set forth in Section 768.28, Florida Statutes.

J. Contractor's Insurance for Contractors Acting as an Agent of the State

The Contractor warrants that it is and shall remain for the term of this Contract, in compliance with the financial responsibility requirements of Section 458.320, Florida Statutes, and is not entitled to, and shall not claim, any exemption from such requirements. The Contractor also warrants that funds held under Section 458.320, Florida Statutes, are available to pay claims against the State in accordance with Section VII., H., Indemnification for Contractors Acting as an Agent of the State.

The Contractor agrees to provide adequate liability insurance coverage to the extent of liability under Section 768.28, Florida Statutes, on a comprehensive basis and to hold such liability insurance at all times during the existence of this Contract. Upon the execution of this Contract, the Contractor shall furnish the Contract Manager written verification supporting such insurance coverage. Such coverage may be provided by a self-insurance program established and operating under the laws of the State of Florida. The Department reserves the right to require additional insurance where appropriate.

If the Contractor is a state agency or subdivision as defined in Section 768.28, Florida Statutes, the Contractor shall furnish the Department, upon request, written verification of liability protection in accordance with Section 768.28, Florida Statutes. Nothing herein shall be construed to extend any party's liability beyond that provided in Section 768.28, Florida Statutes.

K. Contractors Acting as an Agent of the State

In the Contractor's performance of its duties and responsibilities under this Contract, the Contractor shall, at all times, act and perform as an agent of the Department, but not as an employee of the Department. The Department shall neither have nor exercise any control or direction over the methods by which the Contractor shall perform its work and functions other than as provided herein. Nothing in this Contract is intended to, nor shall be deemed to constitute, a partnership or joint venture between the parties.

L. Disputes

Any dispute concerning performance of this Contract shall be resolved informally by the Contract Manager. Any clinical dispute that can not be resolved informally shall be reduced to writing and delivered to the Department's Deputy Director of Health Services-Clinical. The Deputy Director of Health Services-Clinical shall decide the dispute, reduce the decision to writing, and deliver a copy to the Contractor, the Contract Manager, and the Contract Administrator. Any administrative dispute that can not be resolved informally shall be reduced to writing and delivered to the Department's Deputy Director of Health Services-Administration. The Deputy Director of Health Services-Administration shall decide the dispute, reduce the decision to writing, and deliver a copy to the Contractor, the Contract Manager, and the Contract Administrator.

M. Copyrights, Right to Data, Patents and Royalties

Where activities supported by this Contract produce original writing, sound recordings, pictorial reproductions, drawings or other graphic representation and works of any similar nature, the Department has the right to use, duplicate and disclose such materials in whole or in part, in any manner, for any purpose whatsoever and to have others acting on behalf of the Department to do so. If the materials so developed are subject to copyright, trademark, or patent, legal title and every right, interest, claim or demand of any kind in and to any patent, trademark or copyright, or application for the same, will vest in the State of Florida, Department of State for the exclusive use and benefit of the State. Pursuant to Section 286.021, Florida Statutes, no person, firm or corporation, including parties to this Contract, shall be entitled to use the copyright, patent, or trademark without the prior written consent of the Department of State.

The Department shall have unlimited rights to use, disclose or duplicate, for any purpose whatsoever, all information and data developed, derived, documented, or furnished by the Contractor under this Contract. All computer programs and other documentation produced as part of the Contract shall become the exclusive property of the State of Florida, Department of State, and may not be copied or removed by any employee of the Contractor without express written permission of the Department.

The Contractor, without exception, shall indemnify and save harmless the Department and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or supplied by the Contractor. The Contractor has no liability when such claim is solely and exclusively due to the combination, operation, or use of any article supplied hereunder with equipment or data not supplied by the Contractor or is based solely and exclusively upon the Department's alteration of the article. The Department will provide prompt written notification of a claim of copyright or patent infringement and will afford the Contractor full opportunity to defend the action and control the defense of such claim.

Further, if such a claim is made or is pending, the Contractor may, at its option and expense, procure for the Department the right to continue use of, replace, or modify the article to render it noninfringing. (If none of the alternatives are reasonably available, the Department agrees to return the article to the Contractor upon its request and receive reimbursement, fees and costs, if any, as may be determined by a court of competent jurisdiction.) If the Contractor uses any design, device, or materials covered by letter, patent or copyright, it is mutually agreed and understood without exception that the Contract prices shall include all

royalties or costs arising from the use of such design, device, or materials in any way involved in the work to be performed hereunder.

N. Subcontracts

The Contractor is fully responsible for all work performed under this Contract. The Contractor may, upon receiving written consent from the Department's Contract Manager, enter into written subcontract(s) for performance of certain of its functions under this Contract. No subcontract, which the Contractor enters into with respect to performance of any of its functions under this Contract, shall in any way relieve the Contractor of any responsibility for the performance of its duties. All payments to subcontractors shall be made by the Contractor.

If a subcontractor is utilized by the Contractor, the Contractor shall pay the subcontractor within seven (7) working days after receipt of full or partial payments from the Department, in accordance with Section 287.0585, Florida Statutes. It is understood and agreed that the Department shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the Contractor shall be solely liable to the subcontractor for all expenses and liabilities under this Contract. Failure by the Contractor to pay the subcontractor within seven (7) working days will result in a penalty to be paid by the Contractor to the subcontractor in the amount of one-half (½) of one percent (1%) of the amount due per day from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen percent (15%) of the outstanding balance due.

O. Assignment

The Contractor shall not assign its responsibilities or interests under this Contract to another party without prior written approval of the Department's Contract Manager. The Department shall, at all times, be entitled to assign or transfer its rights, duties and obligations under this Contract to another governmental agency of the State of Florida upon giving written notice to the Contractor.

P. Force Majeure

Neither party shall be liable for loss or damage suffered as a result of any delay or failure in performance under this Contract or interruption of performance resulting directly or indirectly from acts of God, accidents, fire, explosions, earthquakes, floods, water, wind, lightning, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, strikes, or labor disputes.

Q. Severability

The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof and this Contract shall be construed in all respects as if such invalid or unenforceable provision was omitted, so long as the material purposes of this Contract can still be determined and effectuated.

R. Use of Funds for Lobbying Prohibited

The Contractor agrees to comply with the provisions of Section 216.347, Florida Statutes, which prohibits the expenditure of State funds for the purposes of lobbying the Legislature, the Judicial branch, or a State agency.

S. Verbal Instructions

No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any Department employee. Only those communications that are in writing from the Department's staff identified in Section IV., Contract Management of this Contract shall be considered a duly authorized expression on behalf of the Department. Only communications from the Contractor's representative identified in Section IV., C., Contractor's Representative, which are in writing and signed, will be recognized by the Department as duly authorized expressions on behalf of the Contractor

T. Conflict of Interest

The Contractor shall not compensate in any manner, directly or indirectly, any officer, agent, or employee of the Department for any act or service that he/she may do, or perform for, or on behalf of, any officer, agent, or employee of the Contractor. No officer, agent, or employee of the Department shall have any interest, directly or indirectly, in any contract or purchase made, or authorized to be made, by anyone for, or on behalf of, the Department.

The Contractor shall have no interest and shall not acquire any interest that shall conflict in any manner or degree with the performance of the services required under this Contract.

U. Department of State Licensing Requirements

All entities defined under Chapters 607, 617, or 620, Florida Statutes, seeking to do business with the Department, shall be on file and in good standing with the State of Florida's Department of State.

V. MyFloridaMarketPlace Vendor Registration

All vendors that have not re-registered with the State of Florida since March 31, 2003 shall go to <http://vendor.myfloridamarketplace.com/> to complete on-line registration, or call 1-866-352-3776 for assisted registration.

W. Public Entity Crimes Information Statement

A person or affiliate who has been placed on the Convicted Vendor List following a conviction for a public entity crime may not submit a bid or proposal to provide any goods or services to a public entity, may not submit a bid or proposal to a public entity for the construction or repair of a public building or public work, may not submit bids or proposals for leases of real property to a public entity, may not be awarded or perform work as a Contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List.

X. Discriminatory Vendors List

An entity or affiliate who has been placed on the Discriminatory Vendor List may not submit a bid or proposal to provide goods or services to a public entity, may not submit a bid or proposal with a public entity for the construction or repair of a public building or public work, may not submit bids or proposals on leases of real property to a public entity, may not perform work as a Contractor, supplier, subcontractor or consultant under a Contract with any public entity, and may not transact business with any public entity.

Y. Governing Law and Venue

This Contract is executed and entered into in the State of Florida and shall be construed, performed, and enforced in all respects in accordance with the laws, rules, and regulations of the State of Florida. Any action hereon or in connection herewith shall be brought in Leon County, Florida.

Z. No Third Party Beneficiaries

Except as otherwise expressly provided herein, neither this Contract, nor any amendment, addendum or exhibit attached hereto, nor term, provision or clause contained therein, shall be construed as being for the benefit of, or providing a benefit to, any party not a signatory hereto.

AA. Health Insurance Portability and Accountability Act

The Contractor shall comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U. S. C. 1320d-8) and all applicable regulations promulgated thereunder. Agreement to comply with HIPAA is evidenced by the Contractor's execution of this Contract, which includes and incorporates **Attachment #1**, Business Associate Agreement, as part of this Contract.

In addition to complying with HIPAA requirements, the Contractor shall not disclose any information concerning inmates, specifically concerning inmate transfers/referrals, to parties outside the Department.

BB. Reservation of Rights

The Department reserves the exclusive right to make certain determinations regarding the service requirements outlined in this Contract. The absence of the Department setting forth a specific reservation of rights does not mean that any provision regarding the services to be performed under this Contract are subject to mutual agreement. The Department reserves the right to make any and all determinations exclusively which it deems are necessary to protect the best interests of the State of Florida and the health, safety, and welfare of the Department's inmates and of the general public which is serviced by the Department, either directly or indirectly, through these services.

CC. Cooperative Purchasing

As provided in Section 287.042(16)(a), Florida Statutes, other State agencies may purchase from this Contract, provided that the Department of Management Services has determined that the Contract's use is cost effective and in the best interest of the State. Upon such approval, the Contractor may, at its discretion, sell these commodities or services to

additional agencies, upon the terms and conditions contained herein. In addition, other political subdivisions may also purchase from this Contract at the discretion of the Contractor. Entities purchasing from this Contract assume and bear complete responsibility with regard to performance of any contractual obligation or term.

DD. Scope Changes After Contract Execution

During the term of the Contract, the Department may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract.

The Department may make an equitable adjustment in the Contract prices or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld.

The Department shall provide written notice to the Contractor thirty (30) days in advance of any Department required changes to the technical specifications and/or scope of service that affect the Contractor's ability to provide the service as specified herein. Any changes that are other than purely administrative changes will require a formal Contract Amendment.

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Waiver of breach of any provision of this Contract shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Contract.

This Contract contains all the terms and conditions agreed upon by the parties.

IN WITNESS THEREOF, the parties hereto have caused this Contract to be executed by their undersigned officials as duly authorized.

CONTRACTOR:
HEALTHCARE CONSULTANTS OF
CENTRAL FLORIDA, INC.
d/b/a HEALTHCARE CONSULTANTS
PHARMACY STAFFING

SIGNED
BY:



NAME:

Robert S. Miller

TITLE:

PRESIDENT

DATE:

1/7/08

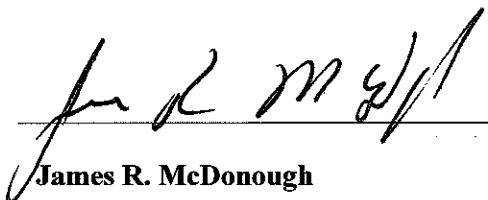
FEID #:

59-2960449

DEPARTMENT OF CORRECTIONS

Approved as to form and legality,
subject to execution.

SIGNED
BY:



NAME:

James R. McDonough

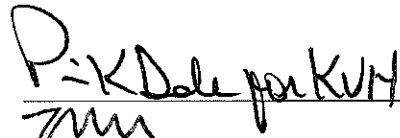
TITLE:

Secretary
Department of Corrections

DATE:

21 Jan 08

SIGNED
BY:



NAME:

Kathleen Von Hoene

TITLE:

General Counsel
Department of Corrections

DATE:

1-3-08

BUSINESS ASSOCIATE AGREEMENT

This Agreement supplements and is made a part of the contract between the Florida Department of Corrections ("Department") and Healthcare Consultants of Central Florida, Inc. d/b/a Healthcare Consultants Pharmacy Staffing ("Contractor"), (individually, a "Party" and collectively referred to as "Parties").

Whereas, the Department creates or maintains, or has authorized the Contractor to receive, create, or maintain certain Protected Health Information ("PHI," as that term is defined in 45 C.F.R. §164.501 and that is subject to protection under the Health Insurance Portability and Accountability Act of 1996, as amended. ("HIPAA");

Whereas, the Department is a "Covered Entity" as that term is defined in the HIPAA implementing regulations, 45 C.F.R. Part 160 and Part 164, Subparts A, C, and E, the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule") and the Security Standards for the Protection of Electronic Protected Health Information ("Security Rule");

Whereas, the Contractor may have access to Protected Health Information in fulfilling its responsibilities under its contract with the Department;

Whereas, the Contractor is considered to be a "Business Associate" of Covered Entity as defined in the Privacy Rule;

Whereas, pursuant to the Privacy Rule, all Business Associates of Covered Entities must agree in writing to certain mandatory provisions regarding the use and disclosure of PHI; and

Whereas, the purpose of this Agreement is to comply with the requirements of the Privacy Rule, including, but not limited to, the Business Associate contract requirements of 45 C.F.R. §164.504(e).

Now, therefore, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. **Definitions**

Unless otherwise provided in this Agreement, any and all capitalized terms have the same meanings as set forth in the HIPAA Privacy Rule. Contractor acknowledges and agrees that all Protected Health Information that is created or received by the Department and disclosed or made available in any form, including paper record, oral communication, audio recording, and electronic display by the Department or its operating units to Contractor or is created or received by Contractor on the Department's behalf shall be subject to this Agreement.

2. **Confidentiality Requirements**

A. Contractor agrees to use and disclose Protected Health Information that is disclosed to it by the Department solely for meeting its obligations under its agreements with the Department, in accordance with the terms of this agreement, the Department's established policies rules, procedures and requirements, or as required by law, rule or regulation.

B. In addition to any other uses and/or disclosures permitted or authorized by this Agreement or required by law, Contractor may use and disclose Protected Health Information as follows:

- (1) if necessary for the proper management and administration of the Contractor and to carry out the legal responsibilities of the Contractor, provided that any such disclosure is required by law or that Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the

person, and the person notifies Contractor of any instances of which it is aware in which the confidentiality of the information has been breached;

- (2) for data aggregation services, only if to be provided by Contractor for the health care operations of the Department pursuant to any and all agreements between the Parties. For purposes of this Agreement, data aggregation services means the combining of protected health information by Contractor with the protected health information received by Contractor in its capacity as a Contractor of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.
- C. Contractor will implement appropriate safeguards to prevent use or disclosure of Protected Health Information other than as permitted in this Agreement. Further, Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Department. The Secretary of Health and Human Services and the Department shall have the right to audit Contractor's records and practices related to use and disclosure of Protected Health Information to ensure the Department's compliance with the terms of the HIPAA Privacy Rule. Contractor shall report to Department any use or disclosure of Protected Health Information, which is not in compliance with the terms of this Agreement as well as any Security incident of which it becomes aware. Contractor agrees to notify the Department, and include a copy of any complaint related to use, disclosure, or requests of Protected Health Information that the Contractor receives directly and use best efforts to assist the Department in investigating and resolving such complaints. In addition, Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this Agreement.
- D. Contractor will ensure that its agents, including a subcontractor, to whom it provides Protected Health Information received from, or created by Contractor on behalf of the Department, agree to the same restrictions and conditions that apply to Contractor, and apply reasonable and appropriate safeguards to protect such information. Contractor agrees to designate an appropriate individual (by title or name) to ensure the obligations of this agreement are met and to respond to issues and requests related to Protected Health Information. In addition, Contractor agrees to take other reasonable steps to ensure that its employees' actions or omissions do not cause Contractor to breach the terms of this Agreement.
- E. Contractor agrees to make available Protected Health Information so that the Department may comply with individual rights to access in accordance with Section 164.524 of the HIPAA Privacy Rule. Contractor agrees to make Protected Health Information available for amendment and incorporate any amendments to Protected Health Information in accordance with the requirements of Section 164.526 of the HIPAA Privacy Rule. In addition, Contractor agrees to record disclosures and such other information necessary, and make such information available, for purposes of the Department providing an accounting of disclosures, as required by Section 164.528 of the HIPAA Privacy Rule.
- F. The Contractor agrees, when requesting Protected Health Information to fulfill its contractual obligations or on the Department's behalf, and when using and disclosing Protected Health Information as permitted in this contract, that the Contractor will request, use, or disclose only the minimum necessary in order to accomplish the intended purpose.
- G. The Contractor agrees to defend and hold harmless the Department against any action or liability or damages arising out of or related to the Contractor's breach of its obligations under this agreement.

3. **Obligations of Department**

- A. The Department will make available to the Business Associate the notice of privacy practices (applicable to offenders under supervision, not to inmates) that the Department produces in accordance with 45 CFR 164.520, as well as any material changes to such notice.
- B. The Department shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.
- C. The Department shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that impacts the business associate's use or disclosure and that the Department has agreed to in accordance with 45 CFR 164.522.

4. **Termination**

- A. **Termination for Breach** - The Department may terminate this Agreement if the Department determines that Contractor has breached a material term of this Agreement. Alternatively, the Department may choose to provide Contractor with notice of the existence of an alleged material breach and afford Contractor an opportunity to cure the alleged material breach. In the event Contractor fails to cure the breach to the satisfaction of the Department, the Department may immediately thereafter terminate this Agreement.
- B. **Automatic Termination** - This Agreement will automatically terminate upon the termination or expiration of the original contract between the Department and the Contractor.
- C. **Effect of Termination**
 - (1) Termination of this agreement will result in termination of the associated contract between the Department and the Contractor.
 - (2) Upon termination of this Agreement or the contract, Contractor will return or destroy all PHI received from the Department or created or received by Contractor on behalf of the Department that Contractor still maintains and retain no copies of such PHI; provided that if such return or destruction is not feasible, Contractor will extend the protections of this Agreement to the PHI and limit further uses and disclosure to those purposes that make the return or destruction of the information infeasible.

4. **Amendment** - Both parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary to comply with the requirements of the Privacy Rule.

5. **Miscellaneous** - Parties to this Agreement do not intend to create any rights in any third parties. The obligations of Contractor under this Section shall survive the expiration, termination, or cancellation of this Agreement, or any and all other contracts between the parties, and shall continue to bind Contractor, its agents, employees, contractors, successors, and assigns as set forth herein if PHI is not returned or destroyed.