



## **AGREEMENT**

Between

**THE STATE OF SOUTH AUSTRALIA**

Acting through the

**DEPARTMENT FOR CORRECTIONAL SERVICES**

And

**"Company Name & ABN / ACN"**

**TABLE OF CONTENTS**

RECITALS.....3  
1.0 INTERPRETATION.....4  
2.0 TERM AND EXTENTION.....5  
3.0 WORK ARRANGEMENTS.....5  
4.0 OPERATION AND CONTROL.....6  
5.0 INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIAL INFORMATION.....6  
6.0 ACCESS AND SECURITY REQUIREMENTS.....7  
7.0 REVIEW OF PRICES.....7  
8.0 PAYMENT.....7  
9.0 TERMINATION.....8  
10.0 RISK AND RELEASE.....8  
11.0 INSURANCE.....8  
12.0 COMPLIANCE WITH BUSINESS REGULATIONS AND LAW.....9  
13.0 GOODS AND SERVICES TAX.....9  
14.0 GOVERNING LAW.....9  
15.0 ASSIGNMENT AND NOVATION.....10  
16.0 ENTIRE AGREEMENT.....10  
17.0 WAIVER.....10  
18.0 VARIATION.....10  
19.0 NOTICES.....11  
20.0 EXECUTION.....12  
21.0 SCHEDULE 1.....13

**THIS AGREEMENT** is made this .....day of .....2009.

**BETWEEN:** THE STATE OF SOUTH AUSTRALIA, through the Department for  
Correctional Services  
("the state")

**AND:** (*Insert company name and details*)  
("the company")

**RECITALS:**

- A. The state conducts the (*enter name of centre*) as prisons under the *Correctional Services Act 1982*.
- B. The company conducts operations that involve (*insert descriptive details of the companies operations to be undertaken*).
- C. The operations of the company provide an appropriate opportunity for the development of programs in the (*enter centre name*) that will assist with the rehabilitation of inmates by transferring skills, which may necessary or desirable for the integration of inmates with the community upon release from prison.
- D. The State is desirous of inmates working in the (*description of company activities to be undertaken*) of the company on the premises of the (*enter centre name*) as part of rehabilitation programs.
- E. The company has a requirement for workers to participate in its (*description of company activities to be undertaken*).
- F. The State will arrange for inmates to work with the company and the company will pay the State in accordance with the provisions of this agreement.



**NOW THE PARTIES AGREE AS FOLLOWS:**

**1.0 INTERPRETATION**

1.1 In this agreement unless the context otherwise requires or the contrary intention Appears, the following terms shall have the meanings assigned to them:

**"CENTRES"** means the (*enter name of centre*), prisons as defined in the *Correctional Services Act 1982*, owned and operated by the State and located at: (*enter centre address*)

**"COMMENCEMENT DATE"** means the date when both parties have signed this agreement;

**"CORRECTIVE SERVICES ACT"** means the *Corrective Services Act 1982*;

**"DELIVERY TIMES"** means the times specified in schedule 1;

**"EQUIPMENT"** means the items described in Schedule 2;

**"MATERIALS"** means the items described in Schedule 1;

**"PRICE"** means the Australian dollar amount listed in schedule 1 to be paid by the company to the State for the work undertaken by the workers at the centre;

**"SITES"** means the areas situated in the centre as described in Schedule 1;

**"WORK"** means the work carried out by the workers as described in Schedule 1;

**"WORKERS"** means the inmates of the (*enter centre name*) Correctional Centre who will carry out the work, in accordance with the terms of this agreement.

1.2 In this agreement headings are for convenience and do not affect interpretation unless the context otherwise requires:

- a) The singular includes the plural and vice versa;
- b) Reference to a gender includes any gender;
- c) A reference to a clause or schedule is a reference to a clause or schedule of this agreement; and
- d) A reference to a statute includes a statute that amends, consolidates or replaces the statute referred to and to all orders, regulations, instruments or other subordinate legislation made under the statute.

## 2.0 TERM AND EXTENTION OF TERM

- 2.1 The term of this agreement is five (5) years from the commencement date.
- 2.2 The parties shall agree by the end of the term whether or not to extend the term of this agreement for a further period of five (5) years or part thereof. Such arrangement is to be evidenced by a variation in accordance with clause 18 of this agreement.
- 2.3 If the parties do not agree to extend the term in accordance with clause 2.2, this agreement will terminate at the end of the term.

## 3.0 WORK ARRANGEMENTS

- 3.1 The State will arrange for the workers to conduct the work at the site in accordance with this agreement.
- 3.2 The company will provide to the State, the (*describe the requirements needed to undertake the work that the customer must provide*).
- 3.3 The equipment (where and when provided) shall remain the property of the company, provided the company complies with the terms of this agreement. In the event the company fails to comply with the terms of this agreement, the state can at its discretion exercise a lien over the materials and equipment until the complies with the terms of this agreement or the agreement is terminated in accordance with clause 9 of this agreement.
- 3.4 The appropriateness and safe condition of the materials and the equipment is the sole responsibility of the company.
- 3.5 The State agrees that it will use the materials and equipment (where and when supplied) by the company exclusively for the work being undertaken for the company.
- 3.6 Provide all consumable items required to undertake the work.
- 3.7 Make arrangements for the company to be provided with access to the site for the purpose of collection of completed work. Or where required by the company make arrangement for the delivery of the completed work to the company at the expense of the company. (Unless alternative arrangements are agreed to by the company and the site).
- 3.8 Subject to clause 6 of this agreement, the company will provide all necessary training to the workers at the site in order to satisfy the parties' obligations under the terms of this agreement.

#### **4.0 OPERATION AND CONTROL**

- 4.1 The direction, supervision, custody and control of the workers remains at all times the absolute and sole responsibility of the Department for Corrective Services officers under the discharge of their statutory obligations under the *Corrective Services Act 1982*.
- 4.2 To remove any doubt, a worker does not become an employee of the company.
- 4.3 The State remains responsible for remunerating the workers in accordance with the policies of the State for the participation of inmates in useful work opportunities.
- 4.4 The State remains responsible for the custody, care and control of all inmates in the centre/s, including and without limitation, its responsibility as occupier of the site and its responsibilities to provide a safe workplace.
- 4.5 The provision of a safe workplace does not include ensuring the safety or condition of the materials and or equipment or manufactured products, which in accordance with clause 3.4 is the sole responsibility of the company.

#### **5.0 INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIAL INFORMATION**

- 5.1 The State agrees that it will respect any confidential information it receives from the company and it will only use that confidential information for the purposes for which; it is provided by the company to the State.
- 5.2 The company acknowledges that in the course of carrying out the work, the State and the workers will gain general knowledge and experience that will be of value. The State and the workers are free to use that knowledge and experience for their own purposes, provided that the State does not disclose confidential information to it by the company to a third party.
- 5.3 The company shall ensure that it and its servants and agents do not reveal to any person any confidential information or other information of the operations, dealings or affairs of the State which may come to its knowledge as a result of this agreement and without limitation to the foregoing, the company shall not use or attempt to use any information or knowledge in any manner which may injure or cause loss, directly or indirectly to the State.

## 6.0 ACCESS AND SECURITY REQUIREMENTS

- 6.1 The State may have access to the company's premises for the provision of any specialist training required for the State's employees, upon giving reasonable notice to the company and accompanied by a representative of the company. The provisions of this clause do not extend to the workers on the site.
- 6.2 The company may have access to the site upon giving reasonable notice to the State and accompanied by a representative of the State, but subject to the terms of the agreement.
- 6.3 When upon any part of the site, the company shall ensure that it and its servants and agents comply with the State's directions and procedures in effect from time to time, including those related to security and workplace health and safety.
- 6.4 Without limitation, if the State directs, the company shall immediately remove itself and shall ensure that its servants and agents immediately remove themselves from the site or centre, if the State believes in its absolute discretion; there is a danger of security risk or other incident at the site or centre.
- 6.5 The company acknowledges that any person, materials or equipment that it wishes to have access to at the site or centre will be subject to a security check (including searches of clothing and of persons) by the State before the person, materials or equipment is / are allowed onto the site or centre.
- 6.6 The State reserves its right to refuse to allow any person to enter the site or centre.

## 7.0 REVIEW OF PRICES

- 7.1 During the term of this agreement or any extension/s in accordance with clause 2 of this agreement, the parties agree to *(insert the dates of price reviews)* the price charged for the work.
- 7.2 Any increase in price:
- 7.3 Must be evidenced by a variation in accordance with clause 18 of this agreement; and
- 7.4 Applies from *(insert date)* of the same year.

## 8.0 PAYMENT

- 8.1 The company shall pay the State the amount set out in schedule 1 within *(insert trading terms)* after receiving an invoice.
- 8.2 The State will provide the company with an invoice *(insert times for invoicing)* setting out details of the work carried out by the State for that period and the amount payable by the company to the State.



## **9.0 TERMINATION**

- 9.1 The State may terminate this agreement immediately or suspend the agreement immediately or until further notice, if:
- 9.2 The company fails to follow the security requirement or other lawful directions of the State in relation to the conduct or operation of the site or centre.
- 9.3 There is a security alert or other incident at the site or centre which requires the suspension of the work.
- 9.4 The company fails to make the payments required under this agreement or does not comply with its obligations under this agreement.
- 9.5 The State may terminate this agreement immediately if the company ceases to carry on or conduct business or takes any step in insolvency proceedings or enters or commences to enter into an arrangement or deed of arrangement with its creditors.
- 9.6 The State may terminate this agreement at any time by giving one month's written notice to the company.
- 9.7 Where the State exercises its rights to termination, the State agrees to complete all existing orders or commitments having been accepted by duly authorised officers of the State at the site or centre, subject to the company's continued compliance to the terms of this agreement.

## **10.0 RISK AND RELEASE**

- 10.1 The company conducts the work at its own risk.
- 10.2 The company shall indemnify the State and its servants and agents against all Actions, claims, proceedings, demands, costs (including but without limitation Legal costs), losses, damages and expenses which may be brought or made Upon the State, including for any breach of any non delegable duty of care arising out of the conduct of the work at the site or centre.
- 10.3 The company hereby releases the State from any claim against The State for costs, expenses, losses, damages or charges that the company might otherwise have against the State arising by virtue of the conduct of the work at the site or centre.

## **11.0 INSURANCE**

- 11.1 The company shall, for the term of this agreement, take out and maintain the Following insurances;
- 11.2 A public liability insurance policy for a sum of not less than five million dollars(AUD \$5,000,000.00) arising from any one event in respect of accidental death of, or accidental bodily injury to

persons, or accidental damage to property; And;

- 11.3 A property and business risk insurance policy for a sum of not less than five Million dollars (AUD \$ 5,000,000.00) in respect of any loss, destruction or Damage caused by the company to the property of the State, in the course of or in connection with the work, and in respect of any loss, destruction or damage to the equipment and materials provided by the company to the State under this agreement.
- 11.4 The company shall lodge immediately with the State after execution of this agreement by the parties a copy of such insurance policies and shall, prior to the anniversary of such policies, lodge evidence of the renewal of such policies.
- 11.5 The State shall, for the term of this agreement, be responsible for Maintenance, repair and insurance of all materials and equipment supplied by the company as detailed in schedule 2.
- 11.6 The State shall indemnify the company against any loss or damage to materials or equipment supplied to the State and any work in progress at the site or centre from destruction by accident or any cause howsoever caused by the negligence of the State, its employees or workers.

## **12.0 COMPLIANCE WITH BUSINESS REGULATIONS AND LAW**

- 12.1 The company shall observe, fulfil and comply with all applicable laws and shall use its best endeavours to ensure that its servants and agents observe, fulfil and comply with any applicable laws being in force.
- 12.2 If any registration, licence or other permission is required from any local authority or from any other Government instrumentality whatsoever or any other compliance with laws is required in respect of the carrying out by the company of its obligations and duties and the exercise by the company of its rights and privileges under this agreement, then the costs of compliance shall be borne by the company.

## **13.0 GOODS AND SERVICES TAX**

- 13.1 In this clause "GST" means a goods and service tax imposed by the Commonwealth of Australia.
- 13.2 In the event that the State is liable for the payment of GST to the Commissioner of Taxation, then the amount payable by the company under this agreement shall be varied by the amount of GST.

## **14.0 GOVERNING LAW**

- 14.1 This agreement is governed by the laws in South Australia and the parties Submit to the jurisdiction of the courts of South Australia.

#### **15.0 ASSIGNMENT AND NOVATION**

15.1 Neither party may assign the benefit of this agreement without the prior written consent of the other party.

15.2 Neither party is obliged to consent to a novation of this agreement.

#### **16.0 ENTIRE AGREEMENT**

16.1 The agreement constitutes the entire agreement between the parties with respect to the subject matter and supersedes any prior representations and undertakings whether written or verbal.

#### **17.0 WAIVER**

17.1 The failure of a party to exercise a right or evidence a right or enforce a provision of this agreement does not operate as a waiver.

#### **18.0 VARIATION**

18.1 This agreement may be varied only by agreement in writing executed by both parties.

## 19.0 NOTICES

- 21.1 A notice required by this agreement:
- 21.2 Must be in writing;
- 21.3 Must be given (unless otherwise advised) to the State at the following address:  
  
Mr Peter Severin  
Chief Executive Officer  
Department for Correctional Services  
Level 6 25 Franklin Street  
Adelaide SA 5001
- 21.4 Must be given (unless otherwise advised) to the company at the following Address:  
  
*(insert name and address details of CEO / MD and company address Details)*
- 21.5 May be delivered to the addresses of the parties for whom it is intended or sent by post or by facsimile.
- 21.6 A notice will be deemed to be received:
- 21.7 If delivered to the address of the party for whom it is intended when delivered.
- 21.8 If sent by post – on the second business day following posting and;
- 21.9 If sent by facsimile, on the next business day following transmission.

Accordingly, the parties have executed this agreement on the dates appearing below.

Signed by Peter Severin )  
Chief Executive Officer )  
Department for Correctional Services )  
For and on behalf of )  
The State of South Australia ) \_\_\_\_\_  
This \_\_\_\_\_ day of \_\_\_\_\_ 200 )  
In the presence of \_\_\_\_\_ )

THE COMMON SEAL OF )  
*(INSERT COMPANY DETAILS HERE)* )  
*(INSERT ABN / ACN HERE)* )  
Was duly affixed in accordance with its )  
Constitution )  
This \_\_\_\_\_ day of \_\_\_\_\_ 200 )  
By \_\_\_\_\_ ) \_\_\_\_\_  
(full name) )  
A director and )  
By \_\_\_\_\_ ) \_\_\_\_\_  
(full name) )  
A director / secretary in the presence of: )  
\_\_\_\_\_)  
(signature) )



