

STATE OF NEW YORK AGREEMENT

<p><u>STATE AGENCY</u> (Name & Address):</p> <p>New York State Department of Corrections and Community Supervision Support Operations – Contract Procurement Unit 1220 Washington Avenue Albany, NY 12226</p> <p>Attn: David Gambacorta Phone: (518) 436-7886 x3110</p>	<p><u>BUSINESS CODE:</u> DOC01</p> <p><u>NYS COMPTROLLER'S NUMBER</u> C161422</p> <p><u>DEPARTMENT CODE:</u> 3250226</p>
<p><u>CONTRACTOR</u> (Name & Address)</p> <p>JPay Inc. 12864 Biscayne Boulevard – Suite 243 Miami, FL 33181</p> <p>Attn: Greg Levine Phone: (954) 862-6900</p>	<p><u>TYPE OF PROGRAM (S):</u></p> <p>Inmate Kiosks Piggyback Contract for Services</p>
<p><u>FEDERAL TAX IDENTIFICATION NUMBER</u> [REDACTED]</p> <p><u>NYS VENDOR ID NUMBER</u> [REDACTED]</p>	<p><u>INITIAL CONTRACT PERIOD</u></p> <p>FROM: August 1, 2017</p> <p>TO: July 31, 2022</p> <p><u>FUNDING AMOUNT FOR INITIAL PERIOD</u></p> <p>\$0</p>
<p><u>STATUS:</u></p> <p>Contractor is a (X) for () not for profit corporation</p>	<p><u>RENEWALS:</u></p> <p>None</p>

APPENDICES ATTACHED AND PART OF THIS AGREEMENT:

- | | | |
|-------|------------|--|
| __X__ | APPENDIX A | Standard Clauses as required by the Attorney General for all State contracts |
| __X__ | APPENDIX B | Statement of Work between DOCCS and JPay, Inc. |
| __X__ | APPENDIX C | M/WBE and EEO Information |
| __X__ | APPENDIX D | Originating Contract, RFP/Contract #1901 including Amendments |
| __X__ | APPENDIX E | Non-Disclosure Agreement |

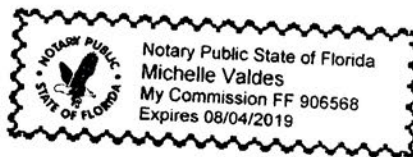
IN WITNESS THEREOF, the parties hereto have executed or approved this AGREEMENT on the dates below their signatures.

<p>CONTRACTOR</p> <p><u>JPay, Inc.</u></p> <p>By: <u><i>[Signature]</i></u></p> <p><u>ERRUL FELDMAN</u> Printed Name</p> <p>Title: <u>CEO</u></p> <p>Date: <u>6/13/17</u></p>	<p>Contract No. <u>C161422</u></p> <p>STATE AGENCY</p> <p><u>New York State Department of Corrections and Community Supervision</u></p> <p>By: <u><i>[Signature]</i></u></p> <p><u>SANDRA DOWNEY</u> Printed Name</p> <p>Title: <u>Director of Budget and Finance</u></p> <p>Date: <u>6/19/17</u></p> <p>State Agency Certification</p> <p>"In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."</p>
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STATE OF Florida)
County of Broward) SS.:

On the 13 day of June, 20 17, before me personally appeared Errul Feldman, to me known, who being by me duly sworn, did depose and say that he/she resides at 12864 Biscayne Blvd #243 miami FL 33181, that he/she is the CEO of the JPay Inc., the corporation described herein which thereto by order of the board of directors of said corporation.

(Notary) *[Signature]*



ATTORNEY GENERAL

STATE COMPTROLLER



AGREEMENT

This AGREEMENT made this 13th day of June, 2017 between the NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION (hereinafter referred to as "DOCCS"), with its principal office located at The Harriman State Campus, 1220 Washington Avenue, Albany, New York 12226 and JPay, Inc. (hereinafter "CONTRACTOR"), with its principal office located at 12864 Biscayne Boulevard – Suite 243, Miami, FL 33181 is for the establishment of a "piggyback" contract.

WHEREAS, pursuant to New York Correction Law §112(1), the Commissioner of DOCCS is given the authority to contract with private entities for the performance of such functions deemed necessary or desirable to promote the efficient operation of DOCCS, as well as the fulfillment of all lawful responsibilities of DOCCS; and

WHEREAS, the State of Nevada, on behalf of the National Association of State Procurement Officials (NASPO) as well as the Multi-State Corrections Procurement Alliance completed and open and competitive solicitation and awarded a multi-year contract to JPay, Inc. for inmate kiosks and related services ("Originating Contract"), RFP/Contract #1901.

WHEREAS, the Originating Contract authorizes other participating states or correctional agencies, to purchase services off of the Originating Contract in accordance with the terms and provisions described therein; and

WHEREAS, the CONTRACTOR is available under the aforementioned contract to provide Inmate Kiosks and Services; and

WHEREAS, the New York State Office of General Services (OGS) Procurement Services Group has approved the use of the Originating Contract, and

NOW THEREFORE, in consideration of the promises, responsibilities and covenants herein, the STATE and the CONTRACTOR agree as follows:

I. TERM

A. When signed by the parties and approved by all necessary government agencies, this AGREEMENT shall commence August 1, 2017 to July 31, 2022 (“Term”) unless terminated earlier pursuant to its terms.

II. AMENDMENTS

A. This AGREEMENT may be amended only upon the mutual written agreement of the parties.

B. To modify the AGREEMENT within an existing Term or Renewal Term, the parties shall execute an amendment to the agreement. Any change in the amount of consideration to be paid, change in scope, or change in the term, is subject to the approval of the Office of the State Comptroller.

C. Any such amendment to or extension of this AGREEMENT shall be subject to approval by the Office of the State Comptroller (“OSC”) and where necessary as set forth in Section X(A) below, shall contain a new budget.

III. SUBCONTRACTING

A. The CONTRACTOR agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of the DOCCS. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.

The CONTRACTOR may arrange for a portion/s of its responsibilities under this AGREEMENT to be subcontracted to qualified, responsible subcontractors, subject to approval of the DOCCS. If the CONTRACTOR determines to subcontract a portion of the services, the subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under this AGREEMENT must be fully explained by the CONTRACTOR to the DOCCS. As part of this explanation, the subcontractor

must submit to the DOCCS a completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form, as required by the CONTRACTOR prior to execution of this AGREEMENT.

The CONTRACTOR retains ultimate responsibility for all services performed under the AGREEMENT.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of this AGREEMENT including, but not limited to, the body of this AGREEMENT, and Appendix A – Standard Clauses for New York State Contracts. Unless waived in writing by the DOCCS, all subcontracts between the CONTRACTOR and subcontractors shall expressly name the STATE, through DOCCS, as the sole intended third party beneficiary of such subcontract. DOCCS reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make the DOCCS or the STATE a party to any subcontract or create any right, claim, or interest in the subcontractor or proposed subcontractor against the DOCCS.

DOCCS reserves the right, at any time during the term of the AGREEMENT, to verify that the written subcontract between the CONTRACTOR and subcontractors is in compliance with all of the provisions of this Section and any subcontract provisions contained in this AGREEMENT.

The CONTRACTOR shall give the DOCCS immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor or which may affect the performance of the CONTRACTOR's duties under the AGREEMENT. Any subcontract shall not relieve the CONTRACTOR in any way of any responsibility, duty and/or obligation of the AGREEMENT.

If at any time during performance under this AGREEMENT total compensation to a subcontractor exceeds or is expected to exceed \$100,000, that subcontractor shall be required to submit and certify a Vendor Responsibility Questionnaire.

IV. TERMINATION

A. DOCCS shall have the right to terminate this AGREEMENT early for (i) unavailability of funds or (ii) convenience provided that the DOCCS has given written notice to the CONTRACTOR no later than thirty (30) days or more prior to the date of termination.

B. DOCCS may terminate the AGREEMENT for cause immediately upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT.

C. DOCCS may terminate this AGREEMENT without cause by thirty (30) days prior written notice. In the event of such termination, the parties will adjust the accrued amount due and the CONTRACTOR will undertake no additional expenditures not already required.

D. This AGREEMENT may be terminated at any time upon mutual written consent of DOCCS and the CONTRACTOR.

E. DOCCS reserves the right to terminate this AGREEMENT in the event it is found that the certification filed by the CONTRACTOR in accordance with New York State Finance Law Sections 139-j and 139-k was intentionally false or intentionally incomplete. Upon such finding, DOCCS may exercise its termination right by providing written notification to the CONTRACTOR in accordance with the written notification terms of this AGREEMENT.

F. In the event of the termination of this AGREEMENT by either party, DOCCS shall be liable for the actual and necessary expenses for services provided by CONTRACTOR up to and including the effective date of termination.

V. CONTRACTOR RESPONSIBILITY

A. The CONTRACTOR shall, at all times during the AGREEMENT term remain responsible. The CONTRACTOR agrees, if requested by the Commissioner of DOCCS or his designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

B. The Commissioner of DOCCS or his designee, in his sole discretion, reserves the right to suspend any or all activities under this AGREEMENT, at any time, when he discovers information that calls into question the responsibility of the CONTRACTOR. In the event of such suspension, the CONTRACTOR will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the CONTRACTOR must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of DOCCS or his designee issues a written notice authorizing a resumption of performance under the Contract.

C. Upon written notice to the CONTRACTOR, and a reasonable opportunity to be heard with appropriate DOCCS officials or staff, the AGREEMENT may be terminated by the Commissioner of DOCCS or his designee at the CONTRACTOR'S expense where the CONTRACTOR is determined by the DOCCS Commissioner or his designee to be non-responsible. In such event, the Commissioner or his designee may complete the contractual requirements in any manner he may deem advisable and pursue available legal or equitable remedies for breach.

VI. CONFLICTS OF INTEREST

A. The CONTRACTOR has provided a form (Vendor Assurance of No Conflict of Interest or Detrimental Effect), signed by an authorized executive or legal representative attesting that the CONTRACTOR's performance of the services does not and will not create a conflict of interest with, nor position the CONTRACTOR to breach any other contract currently in force with the State of

New York, that the CONTRACTOR will not act in any manner that is detrimental to any STATE project on which the CONTRACTOR is rendering services.

B. The CONTRACTOR hereby reaffirms the attestations made in its proposal and covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the CONTRACTOR's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this AGREEMENT. The CONTRACTOR shall have a duty to notify the AGENCY immediately of any actual or potential conflicts of interest.

C. In conjunction with any subcontract under this AGREEMENT, the CONTRACTOR shall obtain and deliver to the AGENCY, prior to entering into a subcontract, a Vendor Assurance of No Conflict of Interest or Detrimental Effect form, signed by an authorized executive or legal representative of the subcontractor. The CONTRACTOR shall also require in any subcontracting agreement that the subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to the AGENCY a signed and completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form for each of its subcontractors prior to entering into a subcontract.

D. The AGENCY and the CONTRACTOR recognize that conflicts may occur in the future because the CONTRACTOR may have existing, or establish new, relationships. The AGENCY will review the nature of any relationships and reserves the right to terminate this AGREEMENT for any reason, or for cause, if, in the judgment of the AGENCY, a real or potential conflict of interest cannot be cured.

VII. PUBLIC OFFICERS LAW

A. Contractors, consultants, vendors, and subcontractors may hire former State Agency or Authority employees. However, as a general rule and in accordance with New York Public Officers Law, former employees of the State Agency or Authority may neither appear nor practice before the State Agency or

Authority, nor receive compensation for services rendered on a matter before the State Agency or Authority, for a period of two years following their separation from State Agency or Authority service. In addition, former State Agency or Authority employees are subject to a "lifetime bar" from appearing before the State Agency or Authority or receiving compensation for services regarding any transaction in which they personally participated or which was under their active consideration during their tenure with the State Agency or Authority.

VIII. ETHICS REQUIREMENTS

A. The Contractor and its Subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the "Ethics Requirements"). The Contractor certifies that all of its employees and those of its Subcontractors who are former employees of the State and who are assigned to perform services under this Contract shall be assigned in accordance with all Ethics Requirements. During the Term, no person who is employed by the Contractor or its Subcontractors and who is disqualified from providing services under this Contract pursuant to any Ethics Requirements may share in any net revenues of the Contractor or its Subcontractors derived from this Contract. The Contractor shall identify and provide the State with notice of those employees of the Contractor and its Subcontractors who are former employees of the State that will be assigned to perform services under this Contract, and make sure that such employees comply with all applicable laws and prohibitions. The State may request that the Contractor provide it with whatever information the State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. The State shall have the right to withdraw or withhold approval of any Subcontractor if utilizing such Subcontractor for any work performed hereunder would be in conflict with any of the Ethics Requirements. The

State shall have the right to terminate this Contract at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.

IX. REQUEST FOR PROPOSAL (RFP) AND CONTRACT AWARD

A. Request for Proposal (RFP) #1901 was issued by the State of Nevada, on behalf of the National Association of State Procurement Officials (NASPO) as well as the Multi-State Corrections Procurement Alliance, and completed and open and competitive solicitation and awarded a multi-year contract to JPay, Inc. for inmate kiosks and related services (“Originating Contract”), RFP/Contract #1901.

B. DOCCS has determined that CONTRACTOR is the successful vendor and the CONTRACTOR is willing and able to provide the services required.

C. CONTRACTOR shall provide kiosks and related services to DOCCS in accordance with the Statement of Work, a true copy of which is annexed hereto and made a part hereof as Appendix B; and the Originating Contract, RFP/Contract #1901 including amendments, a true copy of which is annexed hereto and made a part of as Appendix D.

X. STATEMENT OF WORK

A. Pursuant to this AGREEMENT, CONTRACTOR shall provide the services set forth herein and in Appendix B, Statement of Work, contains a description of the services to be provided by CONTRACTOR.

B. It is expressly understood and agreed by CONTRACTOR that any and all services and products specified in this AGREEMENT shall be provided only at the direction of DOCCS.

XI. COMPENSATION

A. All compensation that will be paid to the CONTRACTOR is set forth in Exhibit A contained in Appendix B which is attached hereto and made a part hereof. Page 6 through 8 of Appendix B consists of the Pricing Exhibit.

B. Throughout the term of this AGREEMENT, CONTRACTOR shall be reimbursed only for actual and necessary expenses for services actually performed in accordance with this AGREEMENT and with Appendix B.

XII. CONFIDENTIALITY

A. CONTRACTOR acknowledges that any and all information, records, files, documents or reports contained in any media format (e.g. print, electronic) provided to CONTRACTOR by the DOCCS or otherwise encountered by CONTRACTOR in the provision of services pursuant to this AGREEMENT shall be considered confidential and shall be handled accordingly at all times. Neither CONTRACTOR nor any of its employees, servants, subcontractors, agents or volunteers shall at any time be permitted to utilize any such confidential information for any purpose outside the scope of this AGREEMENT without the express prior written authorization of DOCCS. CONTRACTOR shall educate, monitor and be responsible for its employees, servants, subcontractors, agents and volunteers providing services for CONTRACTOR pursuant to this AGREEMENT concerning these confidentiality requirements. Any breach of the confidentiality requirements set forth in this Section or in Appendix B by CONTRACTOR or by any of its employees, servants, subcontractors, agents or volunteers may result in the immediate termination of this AGREEMENT by the DOCCS and may subject the CONTRACTOR to further penalties. Annexed hereto as Appendix E is a copy of the Non-Disclosure Agreement.

XIII. INDEPENDENT CONTRACTOR

A. It is expressly understood and agreed that CONTRACTOR'S status hereunder is that of an independent contractor and that no official, employee, servant, subcontractor, agent or volunteer of CONTRACTOR is an employee of the DOCCS or the State of New York. CONTRACTOR is solely responsible for the work, compensation, benefits and personal conduct of all such persons assigned to the provision of services pursuant to this AGREEMENT. Nothing contained in this Section or in any other provision of this AGREEMENT shall be construed to impose any liability or duty to the DOCCS or the State of New York

to persons, firms, consultants or corporations employed or engaged or otherwise utilized by the CONTRACTOR, either directly or indirectly, in any capacity whatsoever, nor shall the DOCCS or the State of New York be liable for any acts, omissions, obligations and taxes of any nature, including unemployment insurance and worker's compensation, of CONTRACTOR or any of its officials, employees, servants, subcontractors, agents or volunteers.

XIV. ASSIGNMENT

A. The rights and obligations of CONTRACTOR under this AGREEMENT may not be assigned, conveyed, transferred, or subcontracted by CONTRACTOR without prior written authorization of the DOCCS as set forth in Appendix A.

XV. NOTICES

A. All notices and communications made pursuant to this AGREEMENT shall be in writing and shall be delivered to the addresses set forth below or to such addresses as the parties may from time to time provide to each other. Said notices should be served via registered mail or personally.

Notification to DOCCS: NYS DOCCS
 Contract Procurement Unit
 The Harriman State Campus
 1220 Washington Avenue
 Albany, New York 12226

Notification to CONTRACTOR: JPay, Inc.
 Attn: Greg Levine
 12864 Biscayne Boulevard – Suite 243
 Miami, FL 33181

or any other address as may be hereinafter designated by written notice. No notice shall be effective until received by the addressee. Communications concerning the daily functions and operation of the scope of services are not to be considered

as notices. Thus, such communications may be done via telephone, e-mail, fax, United States Postal Service or other means.

X. MISCELLANEOUS PROVISIONS

- A. Entire Agreement: This AGREEMENT, including the face page and all its appendices, constitutes the entire AGREEMENT between the parties and supersedes all other communications between the parties relating to the subject matter herein.

- B. Appendix A: DOCCS Appendix A (Standard Clauses as required by the Attorney General for all State contracts) is attached hereto and made a part hereof.

- C. Controlling Statutes: This AGREEMENT shall be governed by and construed in accordance with the laws of the State of New York.

- D. Order of Precedence: In the event of any conflict between the terms of this Agreement and the terms of its Appendices, the following order of precedence shall apply:
 - I. Appendix A (Standard Clauses)
 - II. Agreement #C161422
 - III. Appendix B (Statement of Work)
 - IV. Appendix D (Originating Contract, RFP/Contract #1901 and amendments)
 - V. Appendix C (MWBE & EEO Information)
 - VI. Appendix E (Non-Disclosure Agreement)

"Above Revision Agreed to and Accepted"

 SLD , *6/26/17* *SLD* , *6/27/17*
Contractor Initial / Date ***DOCCS Initial / Date***

- E. Unenforceability: If any part of this AGREEMENT is found to be unenforceable for any reason, that part shall be deemed deleted and all other terms, conditions, and provisions of this AGREEMENT shall remain in full force and effect.

define, limit or describe the scope or intent of this AGREEMENT, or any provision thereof, or in any way affect this AGREEMENT.

- G. Defense and Indemnification: The contractor shall provide for the complete defense of the State, the Department, its officials, employees, and agents and for their complete indemnification from judgments, settlements, or losses that result from actions, claims, or proceedings both judicial or administrative, that arise out of the contractor's performance of this contract. The contractor's duty to indemnify shall not be lessened by its utilization of subcontractors and shall cover direct, indirect, special and consequential damages.
- H. Force Majeure: Neither party shall be liable for losses, defaults, or damages, under this AGREEMENT which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this AGREEMENT, due to or because of acts of God, the public enemy, acts of government, earthquakes, floods, strikes, typhoons, civil strife, fire or any cause beyond the reasonable control of the party that was so delayed in performing or so unable to perform, provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party will resume full performance of such obligations and responsibilities promptly upon removal of any such cause.
- I. Certificate of Insurance: CONTRACTOR must have the necessary insurance to comply with New York State requirements.
Prior to providing any service to the State of New York, the bidder must provide a copy of the insurance certificate naming the State of New York and New York State Department of Corrections and Community Supervision as "additional named insured" in its liability policy.
- J. Workers' Compensation And Disability Benefits Coverage: A policy covering the obligations of the CONTRACTOR in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and the contract, shall be void, and of no effect unless the CONTRACTOR

procures such policy, and maintains it through the end of the contract term. A copy of the certificates must be submitted to and retained by DOCCS. The name and FEIN of the contracting entity must be identical to the name and FEIN identified on the proof of coverage or exemption. In the instance of exemption, please be advised that the WCB does not verify Attestations for Exemption. It is incumbent on the state contracting entity to verify the validity of the entity's reason for exemption; please verify and provide a copy of the signed and dated exemption certificate.

- K. Non-sectarian: CONTRACTOR is a non-sectarian organization and does not have as one of its purposes the advancement of any religion.
- L. McBride: CONTRACTOR has no business operations in Northern Ireland.
- M. Strict Adherence: The failure of DOCCS to insist upon strict adherence to any provision, fiscal obligation, reporting or other requirement of this AGREEMENT shall not be considered to constitute a waiver or constructive modification to deprive DOCCS of the right to insist upon strict adherence to the terms of this AGREEMENT in the future.
- N. Approval: This AGREEMENT shall not become effective unless and until approved by the Department of Law (Attorney General) and the Office of the State Comptroller.
- O. Prevailing Wage Rates – Public Works and Building Services Contracts: Work being performed is subject to prevailing wage rate provisions of New York State Labor Law. If you have any questions or to obtain Prevailing Wage Rates please contact the New York State Department of Labor, Bureau of Public Works at www.labor.ny.gov
- P. M/WBE: By signing said AGREEMENT, CONTRACTOR agrees to comply with all requirements of Minority and Women Business Enterprise Laws,

Regulations and Rules (M/WBE) Annexed hereto as Appendix C is a copy of the M/WBE policy.

APPENDIX A

Standard Clauses as Required by the Attorney General for all State Contracts

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of

any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this

contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00,

whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment

opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.

In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS.

Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.

If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded

the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:
<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not

limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

APPENDIX B

Statement of Work between DOCCS and JPay, Inc.

NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION (NYSDOCCS)

Project Objectives

This Statement of Work is being made pursuant to the Participating Addendum entered into by the New York State Office of General Services (“NYSOGS”) on behalf of the New York State Department of Corrections and Community Supervision (“NYSDOCCS”) and JPay Inc. (“JPAY”) having a termination date of July 31, 2022 (the “Participating Addendum”). Pursuant to the Participating Addendum, JPay will be the provider of money transfer, release debit cards, music downloads, email and related products, media account funding, and all other tablet-based technology services covered in this agreement and outlined in Exhibit A attached hereto. All services mentioned in this SOW are included in JPay’s NASPO contract.

Scope

I. Funding and Media Services (including Release Debit Cards upon release)- JPAY will be the exclusive provider of these services.

Funding

- a. Media Funding Services
 - i. Services will allow inmates the ability to purchase media credits via the kiosk using funds from their inmate trust account. The use of these services will afford the inmate the option to participate in a pay-per-use JPay service. These credits are non-transferable nor refundable at any time, including at the time of release, however, will be processed in accordance with the Section 1304 of New York’s Abandoned Property Law, Section 128 of New York’s Finance Law and New York State policies and procedures relating thereto (<http://www.osc.state.ny.us/ouf/reporters/files/oufhandbook.pdf>).
 - ii. Fees are displayed in Exhibit A
- b. Inmate Trust Account Funding Services
 - i. Money Transfer services for NYSDOCCS will utilize the following:
 1. Lockbox – NYSDOCCS will publicize the JPay money order PO Box as the exclusive mailing address to send money orders to fund inmate trust accounts. NYSDOCCS will continue to publicize this address and policy/procedure on the NYSDOCCS website.
 2. The NYSDOCCS will utilize JPay’s money transfer rails (including but not limited to via www.JPay.com, facility lockbox, at MoneyGram locations, and via telephone) as methods for Friends / Family to fund an inmate’s account.
 3. JPay will aid in moving money from facility to facility (specific bank accounts) when an inmate is relocated and the facility where the inmate transfers from will issue a check payable in the amount of the funds JPay transfers at the end of each week.
 4. The NYSDOCCS will have the ability to deposit checks, such as, but not limited to, Government issued, settlement or estate checks, either into the facility lockbox at no cost or deposit directly into the inmate’s account.
 - ii. Fees are displayed in Exhibit A
- c. Release Debit Cards:
 - i. NYSDOCCS will issue JPay Release Debit Cards to released inmates (over the age of 18) as means to disperse funds left on an Inmate’s Trust Account at time of release.

- ii. JPay and its sponsor bank may impose a minimum load amount should it be deemed necessary. The minimum amount shall not be less than \$5.00 or more than \$40.00.
- iii. Release Debit Cards may be used in conjunction with a NYSDOCCS-sponsored work release program with a separate fee structure than what is discussed in Exhibit A.
- iv. Fees are displayed in Exhibit A

Media (Kiosk and Tablet Services)

NYSDOCCS shall have discretion as to whether it shall agree to utilize any of the following media services at the rates set forth in the Pricing Exhibit (Exhibit A):

- a. 2-Way Email with content scanning – JPay will be the exclusive provider of this service.
 - i. Attachments Available
 - 1. Picture (including eCards)
 - 2. Video Attachment / VideoGram
 - ii. Printouts of text / pictures at inmate expense
- b. Video Visitation
- c. JP5 Tablet
 - i. JPay will provide a JP5S (7inch) tablet for each inmate as directed by NYSDOCCS for the life of the SOW
 - ii. These tablets will be on a “loan” basis for their use while incarcerated; when released the tablet must be returned in working order to JPay.
 - 1. JPay will not hold NYSDOCCS liable for damaged tablets; however, JPay will work with NYSDOCCS in recouping costs from an inmate who damages a tablet and/or kiosk with malice.
 - iii. Tablets issued to inmates may be refurbished units.
 - iv. JPay reserves the right to deny a tablet to an inmate who has destroyed or damaged JPay property in the past. JPay will work with the NYSDOCCS if this occurs.
 - v. JPay will provide a mechanism at no cost to the released inmate or state to provide him/her with all purchased games and music at their release.
 - vi. Each tablet will come with a set of earbuds and charger that have been reviewed and approved by NYSDOCCS. Replacement pieces can be purchased via the JPay kiosk at prices described in Exhibit A.
- d. Tablet (Player) Products – Pricing is described in Exhibit A. – Jpay will be the exclusive provider of these services.
 - i. Music downloads
 - Single Songs
 - Full Albums
 - ii. Video downloads (KA Lite Videos)
 - iii. Education (including Lantern and News Store)
 - iv. E-books
 - v. Movie Rentals
 - vi. Games
 - vii. Accessories

All content that is offered to the inmate population must be reviewed and approved by NYSDOCCS.
- e. Value-Added Services (these Value-Added Services shall be made available to NYSDOCCS at no additional cost; JPay and NYSDOCCS can discuss them at a later date):
 - i. PREA Reporting

- ii. Grievances / Information Center for Inmates
- iii. Commissary Ordering via iFrame

II. Network and Infrastructure

In general, JPay requires the following infrastructure available at each location:

1. Internet access, 3MB download/upload bandwidth (Equivalent of 2 bonded T1) or better depending on the number of kiosks at a given site.
2. Network access at each kiosk location via CAT 5 network cabling (cable runs of 100 meters or less). JPay can share existing network infrastructure and can provide appropriate appliances to supplement the facility's network where necessary.
3. For long cable runs, fiber optic cable is necessary. JPay requires two strands of multi-mode fiber. JPay will provide media converters as necessary in cases where the facility makes unused fiber available. JPay can also share existing fiber with the facility through VLAN configuration. JPay can provide appliances to perform this function if necessary.
4. As an alternative, JPay, with NYSDOCCS permission, will be permitted to use Wi-Fi and/or Wi-Max connectivity.
5. Electrical power in the form of a standard outlet is required at each kiosk location.

JPay will, with the approval and guidance of NYSDOCCS, deploy broadband networks, both wired and wireless (if approved), in all agreed upon NYSDOCCS facilities. If NYSDOCCS has any available conduit, dark fiber, or Ethernet cable available, JPay will first use these resources. JPay will provide broadband connectivity and infrastructure at its cost should NYSDOCCS not have broadband or infrastructure available. JPay will install kiosks at a ratio of 1:75 or as needed at agreed upon locations. The final number of kiosks and types of networks will be determined upon mutual agreement of both parties after site tours are complete.

III. Technical Integration

JPay agrees to work with NYSDOCCS (or its designee) in setting up a file integration with the Inmate Management system. JPay agrees that the inmate lookup will be done via Web Services while a file-swap method will be used to transfer actual deposit files. An additional integration with the IMS will be completed allowing inmates to move money directly from their trust account to the JPay Media account. Documents on current file specifications will be made available in a later Exhibit. Neither party will charge a fee for any costs associated with integrating JPay and NYSDOCCS' Inmate Management System.

Relating to Money Transfer, all funds corresponding to each day's payments are remitted to the specified bank via an Automated Clearing House ("ACH") credit each banking day. The ACH is received within 24-48 business (banking) hours and all fund transfers are detailed in batch reports available on JPay's DOC staff interface.

IV. Service Level Agreements

Kiosk and network issues are resolved within the following timeframe: between 4 hours and 4 business days. Resolution may take 4 days or longer if this issue is considered an exception, i.e. we are waiting on an order for spare parts, we need to repair damaged fiber, clearance delays, escort issues, etc. Some issues require NYSDOCCS assistance, such as power and network failures.

Issue reporting, communications, and resolutions are handled by JPay's Help Desk Team, Field Engineering Team, and NOC (Network Operation Center).

The Help Desk is responsible for technician clearances, scheduling, assistance with mailroom PC's, inquiries from Investigators, Trust Accountants, and other staff.

Onsite Field Engineers are deployed to resolve hardware, network, and power issues. For all onsite calls, our goal is to have someone on site within 48 hours of the issue being identified and reported. As it is not always possible to have someone onsite within 48 hours, we aim to have someone onsite no later than 4 business days not including the exceptions described above.

The NOC detects prolonged downtime by watching the network and the frequency of inmate logins. The NOC performs remote reboots to resolve the vast majority of kiosk outages on the same day that they're reported. If an issue is not detected by the NOC, it is most likely detected in the inmate support tickets and in the direct communication from the NYSDOCCS staff via email and phone.

As a general rule, Kiosks are much more complicated than inmate phones and JPay fully understands the hyper-sensitivity of having the kiosks up and running as much as possible.

V. Personnel

JPay agrees to hire a minimum of 2 New York state based Field Engineers to service JPay's kiosks and networks. These Field Engineers will be supported by JPay's 24-hour Network Operations Center. JPay will assign an Account Manager who is available 24-7 who will act as the main point of contact for the contract. The Account Manager will be supported by JPay's Help Desk, so NYSDOCCS staff always have a contact should they need assistance.

VI. Marketing

For a successful launch, it is imperative that the inmate population, friends and families are well aware of the service and its offerings. Before launching any service, NYSDOCCS will notify the public about the details of the program. The NYSDOCCS website will be updated to include JPay product information, instructions on how to use JPay, and a link to our customized New York State landing page. JPay will work with NYSDOCCS to distribute printed materials.

VII. Training

JPay will deploy a team that will work with NYSDOCCS' designated point of contact to customize the training deliverables and objectives. Training will generally be conducted using live training, remote training, and content and literature distribution.

Upon turning on the kiosks at each facility, the JPay Account Manager will conduct onsite training with staff and with inmates by doing inmate town hall sessions. This will be coordinated between the Account Manager and NYSDOCCS staff upon each site launch.

JPay may also produce infomercials for the intra circuit TV system in the prisons which must be reviewed and approved by NYSDOCCS.

JPay's inmate ticket team handles inquiries on a daily basis.

Suggested attendees for training sessions (*training sessions are organized by respective roles*):

1. Superintendent
2. Security Personnel
3. Inmate Accounts / Business Office Personnel
4. Deputy Superintendent
5. Guidance Staff

VIII. SOW Term



The term of this Statement of Work shall commence on the date of signature by the NYS Office of the State Comptroller and will continue until July 31, 2022.

SOW APPROVED AND AGREED TO:

**New York State Department of Corrections
and Community Supervision**

Sandra Downey
(Authorized Signature)

Sandra Downey
(Print or Type Name of Signatory)

DIRECTOR OF
BUDGET & FINANCE
(Title)

6/19/17
(Date)

JPay Inc.

[Signature]
(Authorized Signature)

Errol Feldman
(Print or Type Name of Signatory)

CEO
(Title)

6/13/17
(Date)

PRICING EXHIBIT

Money Transfer

Amount	Online	Phone	Commission
\$0.00 - \$20.00	\$3.15	\$4.15	None
\$20.01 - \$100.00	\$6.15	\$7.15	None
\$100.01 - \$200.00	\$8.15	\$9.15	None
\$200.01 - \$300.00	\$10.15	\$11.15	None

Item	Cash	Credit	Commission
MoneyGram: \$0.01 - \$2,999.99*	\$4.00	N/A	None
Lockbox	No Cost	N/A	None

*The maximum MoneyGram transaction amount is subject to current MoneyGram regulations

Music and Media

Item	Extended Price	Commission
Per JP5S (7-inch) Tablet**	\$0.00	None
Replacement Earbuds	\$5.00	None
Replacement Charger	\$10.00	None
Per Song	\$1.00 - \$2.50	None
Per Album	\$2.00 - \$46.00	None
Games	Free - \$7.99	None
Movie & Movie Rentals	\$2.00 - \$25.00	None
eBooks / Audio Books	\$0.99 - \$19.99	None

**JPay will provide a tablet to each NYSDOCCS eligible inmate for the life of the contract. JPay reserves the right to deny an inmate a replacement tablet should s/he willfully damage a tablet. Tablets may be refurbished. The first time each inmate receives a tablet, s/he will receive a charger and a set of earbuds. Replacements are available at a cost to the inmate.

Email Services (prices below are for incoming and outgoing email)

Item	Extended Price	Commission
Single Stamp*** (per email)	\$0.35	None
10 Stamp Bundle	\$3.25	None
30 Stamp Bundle	\$8.50	None
60 Stamp Bundle	\$15.00	None

***Single stamp purchase available to inmate only. Stamps buy up to 5,000 characters.

Email Products

Item	Extended Price	Commission
Attachment (Picture)	1 Stamp	None
Attachment (Picture / Card)	2 Stamps	None
VideoGrams	4 Stamps	None

Video Visitation Products

Item	Extended Price	Commission
Video Visitation	\$8.99 per 30 minutes	None

Tablet Based Education

Item	Extended Price	Commission
Inmate and Staff use of JPay's Lantern	No Cost	None
KA Lite Video Downloads	No Cost	None



Release Debit Cards****

Item	Fees (Paid by Cardholder)	Commission
ATM Withdrawal (Domestic)^	\$2.00	None
ATM Withdrawal (International)	\$4.00	None
ATM Decline (Domestic)	\$1.00 \$0.70	None
ATM Decline (International)	\$1.50	None
ATM Balance Inquiry Fee (Domestic)	\$0.50	None
ATM Balance Inquiry Fee (International)	\$1.50	None
Purchase: Pin / Signature (Domestic)^	\$0.70 \$0.50	None
Purchase: Pin / Signature (International)	\$1.00	None
Pin / Signature Decline (Domestic and International)	\$0.50	None
Monthly Service Fee	\$2.00	None
Inactivity Fee^^	\$2.99	None
Replace Card	\$5.00	None
Expedite Card	\$30.00	None
Account Closure^^^^	\$9.95	None
Statement Print	\$1.50	None

There will be no fees associated with Debit Cards associated with inmates participating in the Work Release Program.

****JPAY reserves the right to set a minimum card load

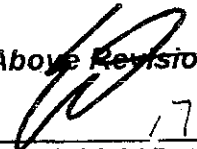
^No charge for 1st Transaction. Use MoneyPass ATM's to avoid ATM surcharges. You can go to any MasterCard member bank and access your funds; third party fees may apply.

^^No charge for 1st Transaction.

^^^Inactivity Fee replaces monthly fee (active after 60 days of inactivity).

^^^^ Fee charged when card is closed and a paper check is requested for any remaining balance. You have 7 calendar days after card activation to close the card account and receive a paper check at no cost.

"Above Revisions Agreed to and Accepted"


7/26/17
NPTM
7/26/17

Contractor Initial / Date
DOCCS Initial / Date

APPENDIX C

MWBE & EEO Information

APPENDIX C

PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The Department of Corrections and Community Supervision (hereinafter referred to as “DOCCS”) is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”) for all State contracts, as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to “DOCCS, to fully comply and cooperate with DOCCS in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State-certified minority and women-owned business enterprises (“MWBEs”). The Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) and other applicable federal, state, and local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the assessment of liquidated damages pursuant to Section VII of this Appendix and such other remedies are available to DOCCS pursuant to the Contract and applicable law.

II. Contract Goals

- A. For purposes of this procurement, DOCCS has determined that the contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers and suppliers to the awarded contractor. Contractor is encouraged to make every good faith effort to promote and assist the participation of New York State Certified Minority and Women-owned Business Enterprises (MWBE) on this contract for the provision of services or materials. To locate New York State Certified MWBEs, the directory of Certified Businesses can be viewed at: <https://ny.newnycontracts.com>
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of MWBEs at the following internet address: <https://ny.newnycontracts.com>.

APPENDIX C

Additionally, the Contractor is encouraged to contact the Division of Minority and Women's Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on the Contract.

- C. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal.

The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

- D. The Contractor must document "good faith efforts," pursuant to 5 NYCRR § 142.8, to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. Such documentation shall include, but not necessarily be limited to:

1. Evidence of outreach to MWBEs;
2. Any responses by MWBEs to the Contractor's outreach;
3. Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;
4. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by DOCCS with MWBEs; and,
5. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE participation.

III. Equal Employment Opportunity ("EEO")

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.

- B. In performing the Contract, the Contractor shall:

1. Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
2. The Contractor shall submit an EEO policy statement to DOCCS within seventy-two (72) hours after the date of the notice by DOCCS to award the Contract to the Contractor.
3. If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, DOCCS may require the Contractor or subcontractor to adopt a model statement (see Form – Equal Employment Opportunity Policy Statement).

APPENDIX C

4. The Contractor's EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
 - d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Form EEO 100 - Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the staffing plan form and submit it as part of their bid or proposal or within a reasonable time, as directed by DOCCS.

D. Form EEO-1 - Workforce Utilization Report

1. The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by DOCCS on a QUARTERLY basis during the term of the Contract.
2. Separate forms shall be completed by the Contractor and any subcontractors.

- E. The Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital

APPENDIX C

status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. Quarterly MWBE Contractor Compliance Report

The Contractor is required to submit a quarterly MWBE Contractor Compliance Report through the NYSCS, provided, however, that the Contractor may arrange to provide such report via a non-electronic method to DOCCS by the 10th day following the end of each quarter or month as applicable during the term of the Contract.

V. Liquidated Damages - MWBE Participation

- A. Where DOCCS determines that the Contractor is not in compliance with the requirements of this Appendix and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to DOCCS liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by DOCCS, the Contractor shall pay such liquidated damages to DOCCS within sixty (60) days after they are assessed. Provided, however, that if the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.

**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL
EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

M/WBE AND EEO POLICY STATEMENT

I, Errol Feldman of JPay Inc., the (awardee/contractor) awardee agree to adopt the following policies with respect to the project being developed or services rendered at New York State Department of Corrections and Community Supervision

M/WBE

EEO

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that, if legally permissible, bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

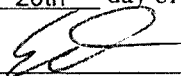
(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this 20th day of June, 2017

By 

Print: Errol Feldman Title: Chief Executive Officer

Karen Zall is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison)

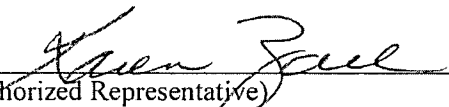
responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

M/WBE Contract Goals

0 percent Minority and Women's Business Enterprise Participation

0 percent Minority Business Enterprise Participation

0 percent Women's Business Enterprise Participation


(Authorized Representative)

Title: Director of Human Resources

Date: June 20, 2017

NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
EEO STAFFING PLAN
(EQUAL EMPLOYMENT OPPORTUNITY)

SUBMIT WITH BID OR PROPOSAL

Solicitation No.: NYSDOCSS Contract #C000812

Reporting Entity:
 Contractor
 Subcontractor

Contractor/Subcontractor's Name: JPay Inc.

Contractor/Subcontractor's Address: 12864 Biscayne Blvd. Suite 243, Miami, FL 33181
Telephone NO.: 954-862-6900

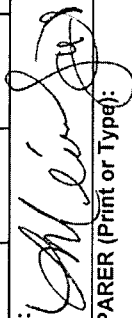
FEIN: [REDACTED]

Report includes Contractor's:
 Contractor's workforce to be utilized on this contract
 Contractor's total workforce
 Subcontractor's workforce to be utilized on this contract
 Subcontractor's total workforce

Submit completed form to:
Department of Corrections and Community Supervision
Support Operations / Contract Procurement Unit
The Harriman State Campus
1220 Washington Ave
Albany, NY 12226

Enter the total number of employees for each classification.

EEO Job Category	Total Workforce	Workforce by Gender		Workforce by Race/Ethnic Identification						Disabled		Veteran					
		Total Male (M)	Total Female (F)	White (Not Hispanic/Latino) (M)	White (Not Hispanic/Latino) (F)	Black (Not Hispanic/Latino) (M)	Black (Not Hispanic/Latino) (F)	Hispanic or Latino (M)	Hispanic or Latino (F)	Asian (Not Hispanic/Latino) (M)	Asian (Not Hispanic/Latino) (F)	American Indian or Alaskan Native (Not Hispanic/Latino) (M)	American Indian or Alaskan Native (Not Hispanic/Latino) (F)	(M)	(F)		
		(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)		
Executive/Senior Level Officials & Managers	7	4	3	3	2	0	1	0	0	1	0	0	0	0	0	1	0
First/Mid Level Officials & Managers	5	2	3	1	2	1	1	0	0	0	0	0	0	0	0	0	0
Professionals	79	52	27	22	6	4	7	18	8	8	6	0	0	0	0	10	0
Technicians	13	13	0	9	0	3	0	0	0	1	0	0	0	0	0	0	0
Sales Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Administrative Support Workers	91	29	62	6	7	17	36	6	18	0	1	0	0	0	0	0	0
Craft Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Operatives	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Laborers and Helpers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Service Workers	3	1	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Totals	198	101	97	41	17	25	45	25	28	10	7	0	0	0	0	11	0
PREPARED BY (Signature): 		TELEPHONE NO.: 954-862-6910		DATE: 06/20/2017		E-MAIL ADDRESS: lmendez@jpay.com											
NAME AND TITLE OF PREPARER (Print or Type): Lily Mendez, Coordinator		FOR AGENCY USE ONLY															
		REVIEWED BY:														DATE:	

General instructions: All Offerors must complete an EEO Staffing Plan (EEO 100) and submit it as part of the bid or proposal package to the address provided. Where the workforce to be utilized in the performance of the State contract can be separated out from the Contractor's total workforce, the Offeror shall complete this form only for the anticipated workforce to be utilized on the State contract. Where the workforce to be utilized in the performance of the State contract cannot be separated out from the Contractor's total workforce, the Offeror shall complete this form for the Contractor's current total workforce. Subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "work") except where the "work" is for the beneficial use of the Contractor must complete this form upon request of DOCCS.

Instructions for completing:

1. Enter the Solicitation Number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the Contractor or a Subcontractor.
3. Check off the appropriate box to indicate type of workforce being reported.
4. Enter the total workforce by EEO job category.
5. Break down the total workforce by gender and enter under the heading "Workforce by Gender."
6. Break down the total workforce by race/ethnic background and enter under the heading "Workforce by Race/Ethnic Identification."
7. Enter the name, title, phone number, and E-mail address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- WHITE** - (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa or the Middle East.
- BLACK** - (Not of Hispanic origin) A person who has origins in any of the black racial groups of Africa.
- HISPANIC or LATINO** - All persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race
- ASIAN & PACIFIC ISLANDER** - All persons having origins in any of the original peoples of the Far East, Southeast Asia or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

AMERICAN INDIAN or ALASKAN NATIVE - A person having origins in any of the original peoples of North or South America (including Central America), and who maintains tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** - Any person who:
 - Has a physical or mental impairment that substantially limits one or more major life activity (ies)
 - Has a record of such an impairment; or
 - Is regarded as having such impairment.
- **VETERAN** - An individual who served in the military during time of war.

APPENDIX D

**Originating Contract, RFP/Contract #1901
including Amendments**

STATEWIDE MASTER SERVICE AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

A Contract between the National Association of State Procurement Officials (NASPO) and the Multi-State Corrections Procurement Alliance (MCPA)
Acting by and through the State of Nevada

**Department of Administration
Purchasing Division
515 E. Musser Street, Suite 300
Carson City, Nevada 89701
Contact: Ronda Miller, Purchasing Officer
Phone: (775) 684-0182 Fax: (775) 684-0188
E-mail: rlmiller@purchasing.state.nv.us**

and

**JPay Inc.
12864 Biscayne Blvd, Suite 243
Miami, Florida 33181
Contact: Errol Feldman, General Counsel
Phone: (305) 577-5543 Fax: (305) 893-8895
E-mail: efeldman@jpay.com**

Pursuant to Nevada Revised Statute (NRS) 277.100, NRS 277.110, NRS 333.162(1)(d), and NRS 333.480 the Chief of the Purchasing Division of Nevada is authorized to enter into cooperative group-contracting consortium.

The National Association of State Procurement Officials (NASPO) and the Multi-State Corrections Procurement Alliance (MCPA) is a cooperative group-contracting consortium for state government departments, institutions, agencies and political subdivisions (i.e., colleges, school districts, counties, cities, etc).

In consideration of the above premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This contract shall not become effective until and unless approved by the Western States Contracting Alliance Board of Directors.
2. **DEFINITIONS.** "NASPO" means the National Association of State Procurement Officials. "MCPA" means the Multi-State Corrections Procurement Alliance. "State" and/or "Lead State" means the State of Nevada and its state agencies, officers, employees and immune contractors as defined in NRS 41.0307. "Participating State(s)" means state(s) that have signed (and not revoked) an Intent to Contract at the time of the award of this contract, or who have executed a Participating Addendum. "Buyer" means any NASPO/MCPA agency or political subdivision participating under this contract. "Contractor" and/or

Effective 04/07

Contracting Agency” means a person or entity that performs services and/or provides goods for NASPO/MCPA under the terms and conditions set forth in this contract. “Solicitation” means RFP #1901 incorporated herein as Attachment AA. “Fiscal Year” is defined as the period beginning July 1 and ending June 30 of the following year.

3. **CONTRACT TERM.** This contract shall be effective from **August 1, 2011 subject to NASPO/MCPA Board of Directors’ approval to July 31, 2015,** unless sooner terminated by either party as specified in paragraph (20).

4. **CANCELLATION OF CONTRACT; NOTICE.** Unless otherwise stated in the special terms and conditions, any contract entered into as a result of the Solicitation may be canceled by either party upon written notice sixty (60) days prior to the effective date of the cancellation. Further, any Participating State may cancel its participation upon thirty (30) days written notice, unless otherwise limited or stated in the special terms and conditions of the Solicitation. Cancellation may be in whole or in part. Any cancellation under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of any Participating State to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order. Cancellation of the contract due to Contractor default may be immediate.

5. **INCORPORATED DOCUMENTS.** The parties agree that the scope of work shall be specifically described; this contract incorporates the following attachments in descending order of constructive precedence:

- ATTACHMENT AA: SOLICITATION #1901 (SCOPE OF WORK) AND AMENDMENTS 1,2,3,4, AND 5;
- ATTACHMENT BB: INSURANCE SCHEDULE; AND
- ATTACHMENT CC: CONTRACTOR'S RESPONSE

A Contractor's attachment shall not contradict or supersede any NASPO/MCPA specifications, terms or conditions without written evidence of mutual assent to such change appearing in this contract.

6. **ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this contract are also specifically a part of this contract and are limited only by their respective order of precedence and any limitations specified.

7. **BID SPECIFICATIONS.** Contractor certifies that any deviation from the specifications in the scope of work, incorporated herein as part of Attachment AA, have been clearly indicated by Contractor in its response, incorporated herein as Attachment BB; otherwise, it will be considered that the bid is in strict compliance. Any BRAND NAMES or manufacturers’ numbers are stated in the specifications are intended to establish a standard only and are not restrictive unless the Solicitation states “no substitute,” and unless so stated, bids have been considered on other makes, models or brands having comparable quality, style, workmanship and performance characteristics. Alternate bids offering lower quality or inferior performance have not been considered.

8. **ACCEPTANCE OR REJECTION OF BIDS, AND AWARD.** NASPO/MCPA has the right to accept or reject any or all bids or parts of bids, and to waive informalities therein. This contract is based the lowest responsive and responsible bid and meets the specifications of the Solicitation and terms and

conditions thereof. Unless stated otherwise in the Solicitation, NASPO/MCPA has the right to award items separately or by grouping items in a total lot.

9. **BID SAMPLES.** Any required samples have been specifically requested in the Solicitation. Samples, when required, have been furnished free of charge. Except for those samples destroyed or mutilated in testing, samples will be returned at a bidder's request, transportation collect.

10. **CONSIDERATION.** The parties agree that Contractor will provide the services specified in paragraph (5). **Contractor shall report contract utilization and pay an administrative fee of .5% of the total kiosk spend to MCPA, paid quarterly within 60 days of the end of the quarter. Inmates or family/friends of inmates to be charged a transaction fee for each service as listed in contractor's cost proposal. Contractor shall pay the participating State a commission for each service purchased by inmates as follows:**

Services	Commission/Rate
Email (per Outbound eMessage)	\$ 0.05
Purchasing Music	5.0%
MP3 Player (per device)	\$ 5.00
JP5 Tablet (per device)	\$10.00
Inmate Banking (per inbound transfer)	\$ 0.50

Contracted prices represent ceiling prices for the supplies and services offered. The Contractor shall report to the Lead State any price reduction or discount, or other more favorable terms offered to any Purchasing Entity and the Contractor agrees to negotiate in good faith to re-establish ceiling prices or other more favorable terms and conditions applicable to future orders. Bid prices must remain firm for the full term of the contract. NASPO/MCPA does not guarantee to purchase any amount under this contract. Estimated quantities in the Solicitation are for bidding purposes only and are not to be construed as a guarantee to purchase any amount.

11. **PAYMENT.** Payment for completion of a contract is normally made within thirty (30) days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After forty-five (45) days the Contractor may assess overdue account charges up to a maximum rate of one (1) percent per month on the outstanding balance. Payments will be remitted by mail. Payments may be made via a Participating State's "Purchasing Card."

12. **TAXES.** Prices shall be exclusive of state sales and federal excise taxes. Where a Participating State is not exempt from sales taxes on sales within its state, the Contractor shall add the sales taxes on the billing invoice as a separate entry. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. The Lead State's real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and NRS 361.159. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this contract. Nevada may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.

13. **FINANCIAL OBLIGATIONS OF PARTICIPATING STATES.** Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having

available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the Solicitation, the resulting award(s) will be permissive.

14. ORDER NUMBERS. Contract order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

15. REPORTS. The Contractor shall submit quarterly reports to the NASPO/MCPA Contract Administrator showing the quantities and dollar volume of purchases by each Participating State. **RS**

16. DELIVERY. The prices bid shall be the delivered price to any NASPO/MCPA state agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance, when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back-ordered shall be shipped without charge.

17. HAZARDOUS CHEMICAL INFORMATION. The Contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to any Buyer. All safety data sheets and labels will be in accordance with each Participating State's requirements.

18. INSPECTIONS. Goods furnished under this contract shall be subject to inspection and test by the Buyer at times and places determined by the Buyer. If the Buyer finds goods furnished to be incomplete or in non-compliance with bid specifications, the Buyer may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price which is equitable under the circumstances.

If Contractor is unable or refuses to correct such goods within a time deemed reasonable by the Buyer, the Buyer may cancel the order in whole or in part. Nothing in this paragraph shall adversely affect the Buyer's rights including the rights and remedies associated with revocation of acceptance under the Uniform Commercial Code.

19. INSPECTION & AUDIT.

a. Books and Records. The Contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. Contractor agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to NASPO/MCPA, the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. Inspection & Audit. Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with a 15 day written notice by NASPO/MCPA; the United States Government; the State Auditor or its contracted examiners, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the

Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this paragraph.

c. Period of Retention. All books, records, reports, and statements relevant to this contract must be retained a minimum four (4) years after the contract terminates or until all audits initiated within the four (4) years have been completed, whichever is later, and for five (5) years if any federal funds are used in the contract. The retention period runs from the date of payment for the relevant goods or services by the State, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

20. CONTRACT TERMINATION. Any of the following events shall constitute cause for NASPO/MCPA to declare Contractor in default of the contract: (1) nonperformance of contractual requirements; and/or (2) a material breach of any term or condition of this contract. NASPO/MCPA shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, NASPO/MCPA may do one or more of the following: (1) exercise any remedy provided by law; (2) terminate this contract and any related contracts or portions thereof; (3) impose liquidated damages; and/or (4) suspend Contractor from receiving future bid solicitations.

Winding Up Affairs Upon Termination. In the event of termination of this contract for any reason, the parties agree that the provisions of this paragraph survive termination:

- i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- ii. Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by NASPO/MCPA;
- iii. Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this contract if so requested by NASPO/MCPA;
- iv. Contractor shall preserve, protect and promptly deliver into NASPO/MCPA's possession all proprietary information in accordance with paragraph (29).

21. REMEDIES. Except as otherwise provided for by law or this contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for attorneys employed by the Lead State. Nevada may set off consideration against any unpaid obligation of Contractor to any State agency in accordance with NRS 353C.190.

22. LIMITED LIABILITY. Nevada will not waive and intends to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any breach by the Lead State shall never exceed the amount of funds appropriated for payment under this contract, but not yet paid to Contractor, for the fiscal year budget in existence at the time of the breach. Damages for any Contractor breach shall not exceed 150% of the contract maximum "not to exceed" value. Contractor's tort liability shall not be limited.

23. FORCE MAJEURE. Neither party to this contract shall be deemed to be in violation of this contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the contract after the intervening cause ceases. NASPO/MCPA may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

24. INDEMNIFICATION. To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend, not excluding the State's right to participate, the lead State, NASPO/MCPA from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents. The Contractor shall release, protect, indemnify and hold NASPO/MCPA and the respective states and their officers, agencies, employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the contractor, his employees or subcontractors or volunteers except in cases in which the liability, claims, actions, damages, losses or expenses are caused exclusively or primarily by the State's negligent or willful acts or omissions.

25. COMPLIANCE WITH LEGAL OBLIGATIONS. Any and all supplies, services and equipment bid and furnished shall comply fully with all applicable Federal and State laws and regulations. Contractor shall procure and maintain for the duration of this contract any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this contract. The Lead State may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.

26. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

27. SEVERABILITY. If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

28. ASSIGNMENT/DELEGATION. To the extent that any assignment of any right under this contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by State, such offending portion of the assignment shall be void, and shall be a breach of this contract. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the NASPO/MCPA Contract Administrator.

29. OWNERSHIP OF PROPRIETARY INFORMATION. Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under the contract), or any other documents or drawings, prepared or in the course of preparation by Contractor (or its subcontractors) in performance of its obligations under this contract shall be the exclusive property of NASPO/MCPA and all such materials shall be delivered into NASPO/MCPA possession by Contractor upon completion, termination, or cancellation of this contract. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of Contractor's obligations under this contract without the prior written consent of NASPO/MCPA. Notwithstanding the foregoing, NASPO/MCPA shall have no proprietary interest in any materials licensed for use that are subject to patent, trademark or copyright protection.

30. PATENTS, COPYRIGHTS, ETC. The Contractor shall release, indemnify and hold NASPO/MCPA, the State, and Participating States and their officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.

31. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The State will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Contractor thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

32. CONFIDENTIALITY. Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by law or otherwise required by this contract.

33. NONDISCRIMINATION. Contractor agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Contractor further agrees to furnish information and reports to requesting Participating States, upon request, for the purpose of determining compliance with these statutes. Contractor agrees to comply with each individual Participating State's certification requirements, if any, as stated in the special terms and conditions. This contract may be canceled if the Contractor fails to comply with the provisions of these laws and regulations. Contractor must include this provision in every subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

34. FEDERAL FUNDING. In the event federal funds are used for payment of all or part of this contract:

a. Contractor certifies, by signing this contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

b. Contractor and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

c. Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

35. LOBBYING. The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

a. Any federal, state, county or local agency, legislature, commission, counsel or board;

b. Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official; or

c. Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.

36. NON-COLLUSION. Contractor certifies that this contract and the underlying bid, have been arrived at independently and have been without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the invitation to bid, designed to limit independent bidding or competition.

37. WARRANTIES.

a. Uniform Commercial Code. The Contractor acknowledges that the Uniform Commercial Code applies to this contract. In general, the contractor warrants that: (a) the product will do what the salesperson said it would do, (b) the product will live up to all specific claims that the manufacturer makes in their advertisements, (c) the product will be suitable for the ordinary purposes for which such product is used, (d) the product will be suitable for any special purposes that the Buyer has relied on the Contractor's skill or judgment to consider.

b. General Warranty. Contractor warrants that all services, deliverables, and/or work product under this contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

c. System Compliance. Contractor warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the State. This warranty includes, without limitation, century

recognition, calculations that accommodate same century and multicentury formulas and data values and date data interface values that reflect the century.

38. CONFLICT OF INTEREST. Contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any NASPO/MCPA participants to any officer or employee of NASPO/MCPA or participating states to secure favorable treatment with respect to being awarded this contract.

39. INDEPENDENT CONTRACTOR. Contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind NASPO/MCPA or the respective states to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for NASPO/MCPA or the states, except as expressly set forth herein.

40. POLITICAL SUBDIVISION PARTICIPATION. Participation under this contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.) of the NASPO/MCPA Participating States shall be voluntarily determined by the political subdivision. The Contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

41. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this contract on behalf of each party has full power and authority to enter into this contract. Contractor acknowledges that as required by statute or regulation this contract is effective only after approval by the NASPO/MCPA Board of Directors and only for the period of time specified in the contract. Any services performed by Contractor before this contract is effective or after it ceases to be effective are performed at the sole risk of Contractor. The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency.

42. GOVERNING LAW; JURISDICTION. This contract and the rights and obligations of the parties hereto shall be governed and construed in accordance with the laws of the state of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. The parties consent to the exclusive jurisdiction of the First Judicial District Court, Carson City, Nevada for enforcement of this contract. The construction and effect of any Participating Addendum or order against the contract(s) shall be governed by and construed in accordance with the laws of the Participating State. Venue for any claim, dispute or action concerning an order placed against the contract(s) or the effect of a Participating Addendum or shall be in the Purchasing State.

43. SIGNATURES IN COUNTERPART. Contract may be signed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one in the same instrument.

44. ENTIRE CONTRACT AND MODIFICATION. This contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this contract specifically displays a mutual intent to amend a particular part of this contract, general conflicts in language between any such attachment and this contract shall be construed consistent with the terms of this contract. The terms of this contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the NASPO/MCPA Contract Administrator.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby.



Independent Contractor's Signature

6/29/11 CEO

Date Independent Contractor's Title

Signature

Date Title




Greg Smith, Administrator, State of Nevada

Approved by NASPO/MCPA Board of Directors

On 7-19-11 Administator

(Date)

Approved as to form by:



Deputy Attorney General for Attorney General

On 5 July 11

(Date)

**ATTACHMENT BB
INSURANCE SCHEDULE**

INDEMNIFICATION CLAUSE:

Contractor shall indemnify, hold harmless and, not excluding the State's right to participate, defend the State, its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys' fees and costs, (hereinafter referred to collectively as "claims") for bodily injury or personal injury including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State.

INSURANCE REQUIREMENTS:

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".

2. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- a. Policy shall contain a waiver of subrogation against the State of Nevada.

- b. This requirement shall not apply when a contractor or subcontractor is exempt under N.R.S., **AND** when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

3. **Fidelity Bond or Crime Insurance**

Bond or Policy Limit

\$ _____

NOTE: A FIDELITY BOND MAY BE NEGOTIATED AT THE DISCRETION OF EACH PARTICIPATING STATE.

- a. The bond or policy shall be issued with limits based on the amount of cash being handled by the Contractor.
- b. The bond or policy shall include coverage for all directors, officers, agents and employees of the Contractor.
- c. The bond or policy shall include coverage for third party fidelity and name the State of Nevada as loss payee.
- d. The bond or policy shall include coverage for extended theft and mysterious disappearance.
- e. The bond or policy shall not contain a condition requiring an arrest and conviction.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the State of Nevada is named as an additional insured, the State of Nevada shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the State, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to **Mail all required insurance documents to the Lead State (Nevada).**

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Nevada and with an "A.M. Best" rating of not less than A- VII. The State in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State with certificates of insurance (ACORD form or equivalent approved by the State) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the State before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.


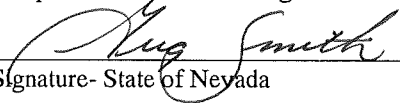
All certificates required by this Contract shall be sent directly to **Mail all required insurance documents to the Lead State (Nevada).** The State project/contract number and project description shall be noted on the certificate of insurance. The State reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insureds under its policies **or** Contractor shall furnish to the State separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Attorney General's Office or the Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

Mail all required insurance documents to the Lead State (Nevada).

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

 _____ Independent Contractor's Signature	Date	<u>6/29/11</u>	<u>CEO</u> _____ Independent's Contractor's Title
 _____ Signature- State of Nevada	Date	<u>7-19-11</u>	<u>Administrator</u> _____ Title

Attachment BB Page 3 of 3

RMIns rev 03/08

AMENDMENT # 01

STATEWIDE MASTER SERVICE AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

A Contract between the National Association of State Procurement Officials (NASPO) and the Multi-State Corrections Procurement Alliance (MCPA)
Acting by and through the State of Nevada

Department of Administration
Purchasing Division
515 E. Musser Street, Suite 300
Carson City, Nevada 89701
Contact: Ronda Miller, Purchasing Officer
Phone: (775) 684-0182 • Fax: (775) 684-0188
E-mail: rlmiller@admin.nv.gov

and

JPay Inc.
12864 Biscayne Blvd, Suite 243
Miami, Florida 33181
Contact: Errol Feldman, General Counsel
Phone: (305) 577-5543 Fax: (305) 893-8895
E-mail: efeldman@jpay.com

1. **AMENDMENTS.** For and in consideration of mutual promises and/or their valuable considerations, all provisions of the original contract resulting from Request for Proposal #1901 and dated July 19, 2011, attached hereto as Exhibit B, remain in full force and effect with the exception of the following:
 - A. To extend the current contract an additional two (2) years from August 1, 2011 to July 31, 2018.
 - B. To add additional service options as outlined in the listing attached hereto as Exhibit A.

Current Contract Language:

3. **CONTRACT TERM.** This contract shall be effective from **August 1, 2011 subject to NASPO/MCPA Board of Directors' approval to July 31, 2015**, unless sooner terminated by either party as specified in paragraph (20).

Amended Contract Language:

3. **CONTRACT TERM.** This contract shall be effective from **August 1, 2011 subject to NASPO/MCPA Board of Directors' approval to July 31, 2018**, unless sooner terminated by either party as specified in paragraph (20).
2. **INCORPORATED DOCUMENTS.** Exhibit 1 (Original Contract) is attached hereto, incorporated by reference herein and made a part of this amended contract.
3. **REQUIRED APPROVAL.** This amendment to the original contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

RSZ 3/22/13 CEO
Independent Contractor's Signature Date Independent Contractor's Title

Greg Smith
Greg Smith, Administrator, State of Nevada

Approved by NASPO/MCPA Board of Directors

On 3/28/13
(Date)

Approved as to form by:

[Signature]
Deputy Attorney General for Attorney General

On 4 Apr 13
(Date)

Current services	Cost
Customer to Government Payments (section 3.2.1.2 "Banking")	See Cost Proposal 1901
General money transfer services for prison commissary accounts, "Sending Money With a Credit/Debit Card"	See Cost Proposal 1901
Credit/debit card via phone and internet	See Cost Proposal 1901
Lobby kiosk with credit/debit cards and cash	See Cost Proposal 1901
money order lockbox, aka "automated lockbox"	See Cost Proposal 1901
walk in cash payments at retailers like MoneyGram/Walmart	See Cost Proposal 1901
Inmate Kiosks	See Cost Proposal 1901
Inbound and outbound email for inmates	See Cost Proposal 1901
Video visitation	See Cost Proposal 1901
MP3 and music sales	See Cost Proposal 1901

Services to Add via Amendment	Cost
Tablets	
Tablet with 16G Memory	\$59.99
Tablet with 32G Memory	\$69.99
Content on the Tablet (an extension of section 3.2.1.8 - MP3 – Download / Purchasing of Music)	
Educational content downloads and subscriptions	\$2.00 - \$250.00
E-books	\$2.00 - \$25.00
Movie and movie rentals	\$2.00 - \$25.00
Approved Games	\$2.00 - \$25.00
Downloading/Uploading inmate kiosk content onto the tablet	No cost - \$5.00
Additional Kiosk Services	
Cell Phone Detection (an extension the inmate kiosk network solution; the technology is installed within the kiosks and is run on the kiosk network infrastructure)	TBD
Commissary Ordering Application from the Kiosk	\$0.00 - \$1.00 per order
Video Visitation Services	
Customer to Inmate & Inmate to Customer web video calling	\$0.30 cents a minute
Care Packages	

Commissary related items purchased by friends and family and sent to inmates	Based on items purchased
Payment Related Software Packages	
Offender Banking and Accounting Software Package System	TBD
Commissary Software Package Systems	TBD
Release Debit Cards	
Card Activation	\$0.00 - \$13.00
ATM Withdrawal	\$2.00
ATM Decline	\$0.50
Pin and Signature Purchase	\$0.70
Pin/Sig Decline	\$0.50
Monthly Service Fee	\$0.00-\$3.00
Replace Card	\$5.00
Expedite Card	\$30.00
Account Closure	\$9.95
Auto Customer Service	\$0.25
Live Customer Service	\$1.00
Inactivity Fee	\$2.99
Statement Print	\$1.50
Booking Kiosks	No cost -\$5.00
Bail/Bond Kiosks	No cost -10%
Parole and Probation Payments and Consumer to Government Payments (i.e. fees and fines)	Same as 3.2.1.2
Outbound Payment Reminders	\$0.00 - \$1.00
Payment Related Software Packages	
Case Management Software Package System	TBD
Alcohol Monitoring	TBD
Alcohol Interlock and System	TBD
Electronic Monitoring Software Package System and Products	TBD
Telephone Reporting Software Package System	TBD

AMENDMENT # 02

STATEWIDE MASTER SERVICE AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

A Contract between the National Association of State Procurement Officials (NASPO) and the Multi-State Corrections Procurement Alliance (MCPA)
Acting by and through the State of Nevada

**Department of Administration
Purchasing Division**
515 E. Musser Street, Suite 300
Carson City, Nevada 89701
Contact: Ronda Miller, Purchasing Officer
Phone: (775) 684-0182 • Fax: (775) 684-0188
E-mail: rlmiller@admin.nv.gov

and

JPay Inc.
12864 Biscayne Blvd, Suite 243
Miami, Florida 33181
Contact: Errol Feldman, General Counsel
Phone: (305) 577-5543 Fax: (305) 893-8895
E-mail: efeldman@jpay.com

1. **AMENDMENTS.** For and in consideration of mutual promises and/or their valuable considerations, all provisions of the original contract resulting from Request for Proposal #1901 and dated July 19, 2011, attached hereto as Exhibit B, remain in full force and effect with the exception of the following:
 - A. To extend the current contract from July 31, 2018 to July 31, 2022 to allow vendors ample time to recoup their costs.

Current Contract Language:

3. **CONTRACT TERM.** This contract shall be effective from **August 1, 2011 subject to NASPO/MCPA Board of Directors' approval to July 31, 2018**, unless sooner terminated by either party as specified in paragraph (20).

Amended Contract Language:

3. **CONTRACT TERM.** This contract shall be effective from **August 1, 2011 subject to NASPO/MCPA Board of Directors' approval to July 31, 2022**, unless sooner terminated by either party as specified in paragraph (20).
2. **INCORPORATED DOCUMENTS.** Exhibit 1 (Original Contract) is attached hereto, incorporated by reference herein and made a part of this amended contract.
3. **REQUIRED APPROVAL.** This amendment to the original contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.



Independent Contractor's Signature

6/12/14

Date

CEO

Independent Contractor's Title



Greg Smith, Administrator, State of Nevada

Approved by NASPO/MCPA Board of Directors

On

7/24/14

(Date)

Approved as to form by:



Deputy Attorney General for Attorney General

On

18 July 14

(Date)

APPENDIX E

Non-Disclosure Agreement

Disclosure of New York State Department of Corrections and Community Supervision Information

THIS NONDISCLOSURE AGREEMENT is entered into as of June 13, 2017 by the New York State Department of Corrections and Community Supervision (“DOCCS”) which is the party disclosing confidential information, and JPay, Inc., which is the party receiving confidential information (“Recipient”), in order to protect the confidential information which is disclosed to the Recipient by DOCCS.

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

1. The Recipient’s representatives for receiving confidential information are: Errol Feldman of JPay, Inc. Recipient shall not disclose the confidential information to any of its employees other than those who have a need to review it and which employees are legally obligated to honor the confidentiality provisions herein.

2. The confidential information disclosed by DOCCS under this Agreement is described as:
Bank account number and the bank routing number.

3. The Recipient shall keep the information confidential and shall use the confidential information only for Contract #C161422.
The Recipient shall not make any copies of the confidential information except as necessary for its employees who are entitled to view it under Section 1 above. Any copies made shall be identified as belonging to DOCCS and marked “confidential” or with a similar legend.

4. The Recipient shall, where applicable, protect the confidential information in a manner consistent with the Health Insurance Portability and Accountability Act (“HIPAA”) of 1996 Privacy and Security provisions and all other applicable regulations.

5. The Recipient shall comply with all Federal and State regulations intended to protect criminal history records as they apply to the confidential information.

6. The Recipient shall comply with all DOCCS directives, policies, practices and procedures as they apply to the protection of the confidential information.

7. The Recipient shall, in the event, of unauthorized disclosure of the confidential information, immediately notify DOCCS, in writing, and fully comply with the requirements of the New York State Breach Notification Act.

8. Any unauthorized disclosure of procurement information may subject Recipient to criminal, civil, and/or administrative penalties.

9. To the extent permitted by law, the Recipient shall protect the disclosed confidential information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination or publication of the confidential information as the Recipient uses to protect its own confidential information of a like nature.

10. The Recipient shall have a duty to protect all confidential information which is disclosed to it, whether disclosed in writing, orally or in any other manner and which is identified as confidential at the time of disclosure. If the disclosure is in writing, it shall be marked “**confidential**.” If a disclosure is not in writing, DOCCS shall provide Recipient with a written memorandum summarizing and designating such information as confidential within thirty (30) days of the disclosure.

11. This agreement controls information that is disclosed to Recipient between August 1, 2017 through July 31, 2022.

12. The Recipient’s duties under paragraph 3,4,5,6 & 7 of this Agreement shall expire (1) year after the information is received. The recipient shall return or destroy all DOCCS confidential information. All paper documents and any copies, made in accordance with #3 above, are to be shredded. Electronically stored information is to be destroyed by shredding or securely wiping the media.

13. This Agreement imposes no obligation upon the Recipient with respect to confidential information which (a) was in the Recipient’s possession before receipt by DOCCS; (b) is or becomes a matter of public knowledge through no fault of the Recipient; (c) is received by the Recipient from a third party without a duty of confidentiality; (d) is disclosed by DOCCS to a third party without a duty of confidentiality on the third party; (e) is independently disclosed by the Recipient with DOCCS’ prior written approval; (f) is developed by the Recipient without reference to information disclosed hereunder.

14. DOCCS warrants that it has the right to make the disclosure under this Agreement.

15. Neither party acquires any intellectual property under this Agreement.

16. Neither party has an obligation under this Agreement to purchase, sell or license any service or item from the other party.

17. The Recipient shall adhere to U.S. Export Administration laws and Regulations and shall not export or re-export technical data, information or products received from DOCCS or the direct product of such technical data or information to any proscribed country listed in the U.S. Export Administration Regulations, unless properly authorized by the U.S. Government.

18. The parties do not intend that any agency or partnership be created between them by this Agreement.

19. All additions or modifications to this Agreement must be in writing and signed by both parties.

20. This Agreement is made under and shall be governed by the laws of the State of New York.

21. Neither party may assign its rights or obligations under this Agreement without the written consent of the other party. Any assignment made without said consent shall be null and void.

22. The recipient shall indemnify and hold harmless DOCCS and the State of New York from any and all suits, causes of actions, claims, grievances, damages, judgments, and costs of every name and description under this Agreement, unless such injuries or damages are directly attributable to the intentional acts or negligent conduct of DOCCS, the State of New York, or their employees.

23. The failure of DOCCS to insist upon strict adherence to any provision or other requirement of this Agreement shall not be considered a waiver to deprive DOCCS of the right to insist upon strict adherence of the terms of this Agreement in the future.

24. If any provision, or portion thereof, of this Agreement is, or becomes, invalid under any applicable statute or rule of law, it is to be deemed stricken and the rest of this Agreement shall remain in full force and effect.

25. This Agreement may be terminated immediately by either party upon delivery of written notice of termination to the other party. Such termination shall not affect Recipient's duty with respect to confidential information disclosed prior to termination.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

NYS Department of Corrections and
Community Supervision

By: Sandra L. Downey

Print Name: Sandra L. Downey

Title: Director, Budget and Finance

Date: 6/19/17

JPay, Inc.

By: [Signature]

Print Name: ERROL FELDMAN

Title: CEO

Date: 6/13/17

Forward all executed copies of nondisclosure agreements to:

NYS Department of Corrections and Community Supervision
Information Security Officer
Building 9
1220 Washington Avenue
Albany, New York 12226-2050