

AGREEMENT BETWEEN CORRECTIONS INDUSTRIES
AND
UNION SUPPLY GROUP, INC.

This AGREEMENT is made and entered into on the 12th day of July, 2021, by and between the New Mexico Corrections Department, Correction Industries Division (hereinafter referred to as ("INDUSTRIES")) acting through the Secretary of the New Mexico Corrections Department and UNION SUPPLY GROUP, INC.

WHEREAS, NMSA 1978, Section 33-8-13 NMSA allows for the operation of a private industry on the grounds of New Mexico Corrections Department correctional facilities; and,

WHEREAS, UNION SUPPLY GROUP, INC. is desiring to contract with INDUSTRIES to lease the warehouse property; operate a canteen operation and provide employment opportunities for inmates at the Penitentiary of New Mexico Facility (PNM) Santa Fe, New Mexico; and,

WHEREAS, INDUSTRIES believes that such employment would be consistent with rehabilitation of inmates; and,

WHEREAS, it is the intent of both parties that the operations pursuant to this AGREEMENT do not unreasonably disrupt the normal routine and management of the correctional facility where the business is located.

Now, therefore, in consideration of the premises, the parties hereto agree as follows:

- j 1. DEFINITIONS: In addition to the words and terms elsewhere defined herein, the following words and terms as used herein shall have the following meanings unless the context or use clearly indicates another or different meaning or intent:
 - A. "Corrections Industries" (INDUSTRIES) means a division of the New Mexico Corrections Department, responsible for overseeing and enforcing the terms and conditions of this AGREEMENT.
 - B. "Penitentiary of New Mexico" (PNM) means the publicly operated prison facility located in Santa Fe County.
 - C. "Default" means an event or condition the occurrence of which would, with the lapse of time or the giving of notice or both, become an event of default hereunder.
 - D. "Division" means the New Mexico Corrections Department, Corrections Industries Division

- E. "Director" means the director of the Corrections Industries Division of the New Mexico Corrections Department, or designee.
 - F. "Premises" means approximately 15,000 square feet of warehouse space in one (1) building(s) located on the grounds of PNM and the immediate surrounds including parking areas, loading docks, walkways, etc.
 - G. "Rent" means the amounts required to be paid to INDUSTRIES pursuant to paragraph 6.
 - I. "State" means the State of New Mexico.
 - J. "Warden" means the warden of the Penitentiary of New Mexico, New Mexico Corrections Department, or designee.
2. DEMISE OF PREMISES: INDUSTRIES, for and in consideration of the covenants and agreements contained in this AGREEMENT to be kept and performed by UNION SUPPLY GROUP, INC. and upon the terms and conditions contained in this AGREEMENT, does lease, demise and let to UNION SUPPLY GROUP, INC. approximately 15,000 square feet of warehouse space located on the Penitentiary of New Mexico (PNM) grounds, Santa Fe, New Mexico to operate a canteen warehouse enterprise.
 3. TERM: This AGREEMENT shall not become effective until approved by the appropriate state government authorities. Subject to such approval, the term shall begin August 1, 2021, and shall terminate July 31, 2025, unless earlier terminated pursuant to the terms of section 28 or extended pursuant to the terms of section 4.
 4. OPTION TO EXTEND: At the expiration of the initial term of this AGREEMENT INDUSTRIES shall have the option to extend the duration of the AGREEMENT upon the same terms and conditions set forth herein for further extension period of one (1) year each. In no event shall this AGREEMENT, including any one (1) year extension(s), extend beyond July 31, 2029.
 5. USE OF PREMISES: UNION SUPPLY GROUP, INC. agrees to use and occupy the Premises in accordance with the provisions of this AGREEMENT to include:
 - A. Use of approximately 15,000 square feet of warehouse space.
 6. RENT: UNION SUPPLY GROUP, INC. agrees to pay INDUSTRIES as rent for the Premises, without notice or demand, \$150,000.00 per year payable in prepaid monthly installments of \$12,500.00. The first payment is due on September 1, 2021, and each subsequent installment shall be due and payable on or before the first of each month for every year thereafter. Late penalties will apply for late payments made after seven (7) business days at a daily rate of 1.5% per day. In the event of a national pandemic, the rate will be reevaluated on a case by case basis at the request of UNION SUPPLY GROUP, INC. Rent payments shall be made payable to New Mexico Corrections Industries and shall be forwarded to the attention of the Director, New Mexico Corrections Industries Division, P. O. Box 27116, Santa Fe, New Mexico 87502-0116.

7. COMMISSION ON SALES: UNION SUPPLY GROUP, INC. agrees to reimburse INDUSTRIES a 32.5 percent commission, during four (4) years on canteen sales. If INDUSTRIES requests to adjust pricing on any item, both UNION SUPPLY GROUP, INC. and INDUSTRIES will negotiate a fair and equitable commission on those specific products in accordance with NMCD policy. Such commission shall be paid on a monthly basis per documents provided by UNION SUPPLY GROUP, INC. and audited by INDUSTRIES. INDUSTRIES shall invoice UNION SUPPLY GROUP, INC. and UNION SUPPLY GROUP, INC. shall pay INDUSTRIES by check made payable to the New Mexico Corrections Industries Division.
8. DISTRIBUTION OF PRODUCT: UNION SUPPLY GROUP, INC. agrees to transport all of the canteen sales to each of the facilities that INDUSTRIES provides services to at no additional cost to INDUSTRIES.
9. CONDITION OF PREMISES: UNION SUPPLY GROUP, INC. acknowledges that UNION SUPPLY GROUP, INC. has made an on-site inspection and knows the condition of the Premises, that UNION SUPPLY GROUP, INC. has received the Premises in good order and condition, and that no representations or warranties, express or implied, as to the condition or repair of the Premises has been made by INDUSTRIES or the Penitentiary of New Mexico.
10. MAINTENANCE:
 - A. It will be the responsibility of UNION SUPPLY GROUP, INC. to ensure that the premises is appropriately maintained and kept in good repair. Failure to report any urgent repairs needed which in turn result in significant damage to the facility and/or premises may result in the termination of this AGREEMENT. UNION SUPPLY GROUP, INC. will promptly repair, at UNION SUPPLY GROUP, INC.'s own expense, any and all damage caused by UNION SUPPLY GROUP, INC. All other routine maintenance and repairs will be the responsibility of INDUSTRIES and the New Mexico Corrections Department. ■ ■
 - B. It will be the responsibility of the UNION SUPPLY GROUP, INC. to notify INDUSTRIES if repairs are needed around the premises regardless if the repairs are routine maintenance, or as a result of damage done by UNION SUPPLY GROUP, INC. If the repairs are the responsibility of INDUSTRIES, INDUSTRIES will then determine the nature and urgency of the reported repairs, as well as the appropriate method of completing the repairs in the most cost-effective manner to benefit the State of New Mexico. It will be at the discretion of the Warden and the Director to approve when or if any repairs will be made.
 - C. For repairs that are the responsibility of UNION SUPPLY GROUP, INC., they will have thirty (30) days after the occurrence of damage to complete the said repairs. If UNION SUPPLY GROUP, INC. fails to make such repairs within the time allotted, the UNION SUPPLY GROUP, INC. will be notified in writing that the repairs will be completed by INDUSTRIES. INDUSTRIES may then proceed with making such repairs, and UNION SUPPLY GROUP, INC. agrees to pay any and all costs of repairs to INDUSTRIES upon completion of the repairs. Such actions may be considered a breach of contract, which may

result in the termination of this AGREEMENT in accordance with the provisions of paragraphs 27 and 55 set forth herein.

11. ALTERATIONS, ADDITIONS AND IMPROVEMENTS:

- A. UNION SUPPLY GROUP, INC. shall not make, or permit to be made, any alterations, additions, or improvements whatsoever in or about the Premises, without first obtaining the written consent from INDUSTRIES, which consent shall not be unreasonably withheld. Such consent, if given, shall be subject to the express condition that any and all alterations, additions and improvements shall be done at UNION SUPPLY GROUP, INC.'s own expense and in accordance with all applicable local, state, and federal ordinances, laws, rules and regulations, and that no liens including mechanics, material, laborers, architects, artisans, UNION SUPPLY GROUP, INC.'s, subcontractor, or any other lien of any kind whatsoever shall be created against or imposed upon any property of the State of New Mexico, or any part thereof. Notwithstanding the foregoing, INDUSTRIES and UNION SUPPLY GROUP, INC. may enter into agreements in writing for capital improvements of the Premises which may provide for the sharing of the expenses for the improvements.
- B. UNION SUPPLY GROUP, INC. shall indemnify and hold INDUSTRIES harmless from all liability and claims of every kind, which might be made or from judgements rendered against INDUSTRIES or the Premises on account of or arising out of such alterations, additions or improvements.

12. OWNERSHIP OF ALTERATION, ADDITIONS AND IMPROVEMENTS:

- A. UNION SUPPLY GROUP, INC. agrees with INDUSTRIES that any all alterations, additions and improvements permanently affixed to the Premises made at UNION SUPPLY GROUP, INC.'s own expense after having first obtained the written consent of INDUSTRIES in accordance with the provisions contained in paragraph* 11, shall immediately merge and become a permanent part of the realty and any and all interest of UNION SUPPLY GROUP, INC. therein shall immediately vest in INDUSTRIES, and all such alterations, additions and improvements shall not be removed by UNION SUPPLY GROUP, INC. at the termination of this AGREEMENT.
- B. Any such alterations, additions and improvements not permanently affixed to the Premises and not made pursuant to paragraph 12(A) may be removed by UNION SUPPLY GROUP, INC. at UNION SUPPLY GROUP, INC.'s expense on or before the termination of the AGREEMENT, and UNION SUPPLY GROUP, INC. shall repair any damage caused thereby at UNION SUPPLY GROUP, INC.'s own expense, such that the Premises shall be in as good order and condition as when the same were entered upon by UNION SUPPLY GROUP, INC.. In the event that UNION SUPPLY GROUP, INC. does not remove such alterations, additions and improvements at the expiration of this AGREEMENT, they shall become the property of INDUSTRIES.

13. UTILITY AND OTHER CHARGES: INDUSTRIES agrees to cover all utility and other charges of whatsoever kind and nature, including charges for electrical, water, and other services, which may be incurred in connection with UNION SUPPLY GROUP, INC.'s use of

the Premises, and further agrees to indemnify and hold UNION SUPPLY GROUP, INC. harmless therefrom. In the event of any dispute concerning UNION SUPPLY GROUP, INC.'s usage of utilities, INDUSTRIES shall be obligated to provide separate meters of the utilities being used by UNION SUPPLY GROUP, INC. to substantiate and document UNION SUPPLY GROUP, INC.'s usage of the utility services.

14. ASSIGNMENT AND SUBLETTING:

- A. UNION SUPPLY GROUP, INC. may not assign, sublet, mortgage, subordinate, alienate or hypothecate the Premises or any part thereof without the express written consent of INDUSTRIES, which consent shall not be unreasonably withheld or delayed.
- B. The consent of INDUSTRIES to any assignment or subletting shall not discharge UNION SUPPLY GROUP, INC. from liability upon the agreements and covenants of this AGREEMENT, and UNION SUPPLY GROUP, INC. shall remain liable for the full and complete performance of all the terms, conditions, covenants, and agreements contained in this AGREEMENT as a principal and not as a guarantor or surety to the same extent as though no assignment or sublease has been made.
- C. Any consent of INDUSTRIES to such assignment or subletting, shall not operate as a consent to further assignment or subletting or as a waiver of this covenant and agreement against assignment and subletting. Following any such assignment or subletting, the assignee and/or sublessee shall be bound by all of the terms, conditions, covenants, and agreements contained in this AGREEMENT including the covenant against assignment and subletting.

15. INSPECTION: UNION SUPPLY GROUP, INC. shall permit INDUSTRIES in conjunction with the PNM Warden or his designee or the Director or his designee to come upon the Premises at all reasonable times in order to inspect the condition, use, safety or security of the Premises and any improvements thereon.

16. SIGNS AND PERSONAL PROPERTY: UNION SUPPLY GROUP, INC. may place signs on the Premises only with the advance written approval of INDUSTRIES in conjunction with the PNM Warden or his designee, such approval shall not be unreasonably withheld by INDUSTRIES. All personal property, signs and improvements of UNION SUPPLY GROUP, INC., its employees, agents, and invitees kept on the Premises shall be at the sole risk of UNION SUPPLY GROUP, INC., and INDUSTRIES shall not be liable for any damage thereto.

17. REQUIREMENTS OF PUBLIC AUTHORITY: UNION SUPPLY GROUP, INC. agrees with INDUSTRIES that during the term of this AGREEMENT, UNION SUPPLY GROUP, INC. shall, at their own cost and expense, promptly observe and comply with all applicable rules and regulations of INDUSTRIES and local, state and federal ordinances, laws, rules and regulations affecting the Premises or appurtenances thereto, or any part thereof, or UNION SUPPLY GROUP, INC.'s operations thereon, whether the same are in force and effect at the

time of commencement of the term of this AGREEMENT, or may in the future be passed, enacted, or directed and UNION SUPPLY GROUP, INC. shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims and demands that may in any manner arise out of or be imposed because of the failure of UNION SUPPLY GROUP, INC. to comply with the covenants and AGREEMENT of this Paragraph.

18. **CONTRACT DOCUMENTS:** The Contract Documents consists of: (i) this AGREEMENT and all attachments hereto, (ii) UNION SUPPLY GROUP, INC.'s proposal, and (iii) RFP #21-770-8000-0001. Said documents are hereby incorporated into and made a part of this AGREEMENT. In the event of conflicting provisions or ambiguities, the order of precedence shall be as set forth above, in descending order.

19. **SCOPE OF WORK: Partner with the New Mexico Corrections Industries Division (INDUSTRIES) to establish and maintain an inmate commissary program on the grounds of the Penitentiary of New Mexico in Santa Fe.**

UNION SUPPLY GROUP, INC. will perform duties as described in the Contract Documents and Attachment "A" Scope of Work.

20. **EQUAL OPPORTUNITY COMPLIANCE:** UNION SUPPLY GROUP, INC. agrees to abide by all state and federal laws and rules and regulations, and executive orders of the Governor of the state of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the state of New Mexico, the UNION SUPPLY GROUP, INC. agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under activity performed under this AGREEMENT and authorizes INDUSTRIES to conduct investigations, including interviews of any and all parties to this AGREEMENT, into complaints of violation of laws, civil rights and equal opportunity compliance, environmental issues, workplace safety, disability laws, employer-employee relations and all other laws governing operation of the workplace. If UNION SUPPLY GROUP, INC. is found to be not in compliance with these requirements during the life of this AGREEMENT, UNION SUPPLY GROUP, INC. agrees to take appropriate steps to correct these deficiencies.

21. **INDEMNITY:** UNION SUPPLY GROUP, INC. shall defend, indemnify and hold INDUSTRIES harmless from action, proceedings, loss, costs, damages, liability and all other liabilities and expenses, including but not limited to attorney's fees, and cost of litigation incurred by INDUSTRIES by reason of any claim against INDUSTRIES arising out of this AGREEMENT or the operations of the Premises, except for as set forth in paragraph 13 and where losses, claims or damages are directly attributable to INDUSTRIES's failure to perform its duties or obligations as required herein. INDUSTRIES liability will be controlled or determined by the NM Tort Claims Act.

22. **NOTICE:** All notices relating to this AGREEMENT shall be in writing and shall be delivered to the following addresses and, if mailed, sent certified or registered mail, return receipt requested:

UNION SUPPLY GROUP, INC:

L.D. Hay
2500 Regent Boulevard
Dallas, TX 75261

INDUSTRIES:

Robert Leon, Director
PO Box 27116
Santa Fe, NM 87502

Or to such other addresses as either party may give to the other party by written notice as set forth above.

23. **WAIVER:** No failure on the part of INDUSTRIES to exercise, and no delay in exercising any right, power or privilege hereunder, shall preclude other or further exercise thereof, or the exercise of any other right, power or privilege. The rights or limitations herein provided are cumulative and not exclusive of any rights and remedies otherwise provided by law or equity.
24. **EXPIRATION:** Upon termination of this AGREEMENT by reason of the expiration of the term, UNION SUPPLY GROUP, INC. will immediately surrender to INDUSTRIES possession of the Premises and all improvements thereon in good condition and repair, notwithstanding damage by the elements not subject to normal maintenance and reasonable wear and tear.
25. **INSURANCE:**
- A. UNION SUPPLY GROUP, INC. shall carry and maintain in full force and effect during the term of this AGREEMENT, at UNION SUPPLY GROUP, INC.'s sole cost and expense and as additional rent hereunder, public liability insurance coverage for bodily injury in the amount of \$400,000.00 each occurrence, and for property damage in the amount of \$100,000.00 each occurrence, or a combined limit for bodily injury and/or property damage in the amount of \$750,000.00.
- B. INDUSTRIES shall be named as an additional insured on all policies of insurance. All policies of insurance required by this AGREEMENT shall be in standard form and written by qualified insurance companies authorized to do business in New Mexico. Each insurance policy shall set forth:
- 1) The dates of inception and expiration of the insurance.
 - 2) A statement by the insurance carrier that thirty (30) days prior written notice to INDUSTRIES shall be given in the event of cancellation, material change, alteration or amendment of the policy.
- C. Evidence of the insurance coverage required by this AGREEMENT shall be provided to INDUSTRIES upon the execution of this AGREEMENT.
26. **TAXES:** All taxes and special general assessments of any kind and nature, extraordinary as well as ordinary, which may be levied upon the personal property located upon the Premises or UNION SUPPLY GROUP, INC.'s operations thereon shall be paid by UNION SUPPLY GROUP, INC. at the time when the same shall become due and payable.

27. DESTRUCTION: UNION SUPPLY GROUP, INC. agrees with INDUSTRIES that if at any time during the term of this AGREEMENT the Premises shall be totally or partially destroyed by fire, flood, earthquake, or any natural calamity, INDUSTRIES shall have the option to repair the Premises in as good condition as they were immediately prior to such calamity; provided, however, that such rebuilding or repair shall be commenced after notice in writing to INDUSTRIES of such destruction or damage. In such case, a just and proportionate part of the rental herein specified shall be abated until the Premises shall have been rebuilt and repaired. In case, however, INDUSTRIES shall, within thirty (30) days following notice in writing to it of such damage, elect not to rebuild or repair the Premises, INDUSTRIES shall so notify UNION SUPPLY GROUP, INC. in writing and thereupon, this AGREEMENT may at either party's election by written notice terminate and become null and void. Moreover, in no event shall INDUSTRIES have any duty or obligation to rebuild or repair any personal property owned or leased by the UNION SUPPLY GROUP, INC. and used to carry out the purpose for which UNION SUPPLY GROUP, INC. is leasing the Premises.

28. DEFAULT OF UNION SUPPLY GROUP, INC. AND REMEDIES OF INDUSTRIES:

A. If either of the following "Events of Default" shall occur:

- 1) UNION SUPPLY GROUP, INC.'s breach or default under any term, covenant or condition of the AGREEMENT except a breach of default which involves life, health, safety or security issues; or
- 2) UNION SUPPLY GROUP, INC.'s failure to pay when due any insurance premiums required to be paid hereunder.

B. INDUSTRIES may give UNION SUPPLY GROUP, INC. written notice by certified or registered mail, specifying what "Event of Default", has occurred. Unless the "Event of Default" is remedied or obviated by UNION SUPPLY GROUP, INC. within thirty (30) days after receipt of such notice, or unless within such thirty (30) day period UNION SUPPLY GROUP, INC. shall have commenced and shall continue to take action for the purpose of remedying or obviating such Event of Default and shall thereafter, in good faith, prosecute such action to completion, INDUSTRIES may declare the forfeiture of the interest of UNION SUPPLY GROUP, INC. in this AGREEMENT by giving UNION SUPPLY GROUP, INC. written notice of termination by certified or registered mail, and this AGREEMENT shall terminate forthwith.

C. UNION SUPPLY GROUP, INC.'s breach or default of any term, covenant or condition of this AGREEMENT which involves life, health, safety or security issues shall be grounds for immediate termination of this AGREEMENT by INDUSTRIES. This AGREEMENT shall immediately terminate upon UNION SUPPLY GROUP, INC.'s receipt of written notice of termination by certified or registered mail.

D. Upon receipt of a notice of termination, UNION SUPPLY GROUP, INC. shall immediately surrender the Premises, together with all improvements, buildings and fixtures thereon except as otherwise provided herein. If UNION SUPPLY GROUP, INC.

fails to surrender the Premises, INDUSTRIES may take possession of the Premises, together with all improvements, buildings and fixtures thereon, either by force, summary proceedings or by any other suitable action or proceedings at law or otherwise, without being liable for damages. UNION SUPPLY GROUP, INC. agrees that in the event of forfeiture, it shall, upon request of INDUSTRIES, assign, convey and transfer to INDUSTRIES the title to all improvements, buildings and fixtures on the Premises. Under this remedy, UNION SUPPLY GROUP, INC., shall be liable for the costs, expenses, and attorney's fees of INDUSTRIES in enforcing its rights under this AGREEMENT, including injunctive relief or the obtaining of possession and INDUSTRIES shall have a lien on all property of UNION SUPPLY GROUP, INC., on the Premises as security for the payment of such rental costs, expenses and attorney's fees. No termination of this AGREEMENT shall relieve UNION SUPPLY GROUP, INC. of their liabilities and obligations under this AGREEMENT.

29. **BANKRUPTCY AND CONDEMNATION:** UNION SUPPLY GROUP, INC. agrees with INDUSTRIES that should UNION SUPPLY GROUP, INC. make an assignment for the benefit of creditors or should be adjudged a bankrupt, either by voluntary or involuntary proceedings, or if otherwise a receiver or trustee should be appointed by any court of competent jurisdiction for UNION SUPPLY GROUP, INC. because of any insolvency, or any execution, attachment, replevin, or other court order should be issued against the UNION SUPPLY GROUP, INC. or any of the UNION SUPPLY GROUP, INC.'s property, whereby the Premises or alterations, additions, or improvements thereon, shall be attempted to be taken or occupied by someone other than UNION SUPPLY GROUP, INC., the occurrence of any such event shall be deemed a breach of this AGREEMENT, and, in such event, INDUSTRIES shall have the option to terminate this AGREEMENT and to re-enter the Premises and take possession thereof, whereupon UNION SUPPLY GROUP, INC. shall quit and surrender the Premises peaceably to INDUSTRIES.
30. **INMATE LABOR:** Persons employed by UNION SUPPLY GROUP, INC. on the Premises, except administrative and supervisory personnel, shall be inmates of the New Mexico Corrections Department as approved for such employment pursuant to the Department's policies and procedures. Inmates used pursuant to this AGREEMENT shall not be considered or construed as employees as defined by the Fair Labor Standards Act. UNION SUPPLY GROUP, INC. shall contract 12 to 20 inmates depending on the needs of UNION SUPPLY GROUP, INC. Inmates contracted by UNION SUPPLY GROUP, INC. shall be paid in compliance with Corrections Department policy CD-I 10600 as billed by INDUSTRIES. Such wages shall be paid on a monthly basis by check made payable to the Corrections Industries Division who will pay the PNM Level II for deposit in the inmate trust account. In consideration for managing and administering the inmate payroll and for inmate compensation, UNION SUPPLY GROUP, INC. will compensate INDUSTRIES the sum of five dollars and twenty-five cents (\$5.25) per hour per inmate. The use of said inmate labor is per the approval of the Warden of the PNM and the Director or designee, and all costs associated with obtaining inmate labor will be paid by UNION SUPPLY GROUP, INC.
31. **UNION SUPPLY GROUP, INC. WILL PROVIDE COMPENSATION COST FOR AN INDUSTRIES OFFICER LIAISON:** UNION SUPPLY GROUP, INC. agrees to reimburse INDUSTRIES \$32.00 per hour for salaries and benefits paid to an Industries liaison. The

Corrections Officer is an INDUSTRIES employee and will act as the liaison between UNION SUPPLY GROUP, INC. and INDUSTRIES, facilitating canteen operations and ensuring standard operating procedures are being carried out in the most efficient manner possible, and assisting INDUSTRIES as much as practical to ensure a successful partnership. The Officer's hours will be flexible to meet needs but will be on a 40-hour workweek. The Officer will assist UNION SUPPLY GROUP, INC. in accomplishing designated tasks and will also supervise the inmate work force provided by PNM. INDUSTRIES shall pay the officer based upon an average 40 hour work week, consistent with Corrections Department Policy and the Fair Labor Standards Act (FLSA). Such wages shall be paid on a monthly basis as billed by INDUSTRIES by check made payable to the Corrections Industries Division

32. PRIVATE ENTERPRISE: The parties acknowledge that UNION SUPPLY GROUP, INC. is a limited liability company and shall be subject to all laws governing the operation of a similar New Mexico limited liability company; provided, however, that the provisions of the Unemployment Compensation Law shall not apply to inmate employees.
33. NOT A JOINT VENTURE: Nothing in this AGREEMENT shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent/principal relationship) between the parties hereto.
34. ENVIRONMENTAL PROTECTION:
 - A. Within the limits of their respective legal powers, the parties to this AGREEMENT shall protect the Premises against pollution of its air, ground and water. UNION SUPPLY GROUP, INC. shall comply with any laws, regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is specifically prohibited. Such regulations conditions or instructions in effect or prescribed by the said Environmental Protection Agency, or any federal, state, interstate or local governmental agency are hereby made a condition of this AGREEMENT.
 - B. UNION SUPPLY GROUP, INC. will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from activities of the program, UNION SUPPLY GROUP, INC. shall be liable to restore the damaged resources.
 - C. UNION SUPPLY GROUP, INC. must obtain approval in writing from INDUSTRIES before any pesticides or herbicides are applied to the premises.
35. INGRESS AND EGRESS: UNION SUPPLY GROUP, INC. shall enter and exit the Premises through the main gate at PNM. UNION SUPPLY GROUP, INC. shall also permit other authorized persons unencumbered access to any and all areas of the premises in order to fulfill needed work, repairs, or inspections.

36. AMENDMENTS: It is understood and agreed between the parties that this AGREEMENT shall not be altered, changed, or amended except by instrument in writing executed by the parties.
37. GOVERNING LAW: This AGREEMENT shall be governed by and construed in accordance with the laws of the State of New Mexico.
38. SEVERABILITY: If any provision of this AGREEMENT, or any application thereof, shall be declared invalid or unenforceable by any court of competent jurisdiction, the remainder of this AGREEMENT, and any other application of such provision, shall continue in full force and effect.
39. SUCCESSION: This AGREEMENT shall extend to and be binding upon the heirs, successors and assigns of the parties.
40. CONDEMNATION: In the event that all or any portion of the Premises is condemned by any governmental body or agency, this AGREEMENT shall automatically terminate as to the part so taken, provided however, that UNION SUPPLY GROUP, INC. may terminate the AGREEMENT for the portion of the Premises remaining by notifying INDUSTRIES in writing. Should UNION SUPPLY GROUP, INC. make such determination, INDUSTRIES shall be entitled to thirty (30) days written notice. In the event that this AGREEMENT for the portion of the Premises remaining is not terminated, the remaining rent shall be adjusted so that UNION SUPPLY GROUP, INC. shall pay that portion of the rent remaining in proportion to the Premises remaining after the condemnation. INDUSTRIES shall be entitled to all compensation awarded or paid and UNION SUPPLY GROUP, INC. shall have no right to any part thereof.
41. MISCELLANEOUS: UNION SUPPLY GROUP, INC. agrees to compensate INDUSTRIES for work performed at the PNM Warehouse. INDUSTRIES will provide UNION SUPPLY GROUP, INC. with a quote on the work requested. Compensation shall be made upon completion of such work and within 30 days of receipt of billing.
42. EARLY TERMINATION OF AGREEMENT:
 - A. INDUSTRIES may terminate this AGREEMENT in the event that INDUSTRIES determines that the premises are needed by any agency or other unit of the State of New Mexico for the conduct of state business. Should INDUSTRIES decide to terminate this AGREEMENT, UNION SUPPLY GROUP, INC. shall be entitled to sixty (60) days' notice, in writing, from INDUSTRIES of early termination of this AGREEMENT.
 - B. Either party may terminate this AGREEMENT upon giving the other party sixty (60) days written notice. In the event of such termination by UNION SUPPLY GROUP, INC., the rent due hereunder shall be prorated to the date of termination. In the event that this AGREEMENT is terminated, UNION SUPPLY GROUP, INC. will have three (3) months to remove all of their product inventory and racking.
43. NO THIRD PARTY BENEFICIARY: This AGREEMENT is for the benefit of the parties to the AGREEMENT and nothing herein shall be considered to be intended for the benefit of any third party.

44. **INMATE EMPLOYMENT:** UNION SUPPLY GROUP, INC. will use such Premises for purposes of canteen operations using inmate labor supplied by PNM. All inmates hired for the canteen operations shall be inmates at the PNM Level II who volunteer for such employment, but who must be assigned by the institution and approved by the warden. Inmate time cards, pay records, attendance records and performance records will be kept by INDUSTRIES. A summary report shall be provided to the business manager at INDUSTRIES on a monthly basis.
45. **SECURITY SUPERVISION:** The Corrections Department will provide such security officers and coverage as the correctional facility warden believes are necessary for the supervision and safety of inmate employees and UNION SUPPLY GROUP, INC. personnel at the times they are working.
46. **CIVILIAN PERSONNEL:** Any civilian UNION SUPPLY GROUP, INC. employee shall be subject to an initial and continuing security clearance review by the New Mexico Corrections Department. UNION SUPPLY GROUP, INC. shall submit the names, dates of birth and social security numbers of the civilian employees, together with a release of information signed by the employee on forms provided by PNM for a security clearance before entrance into the security perimeter. UNION SUPPLY GROUP, INC.'s employees assigned to the prison facility shall be subject to initial background checks and drug tests. Any civilian personnel employed by UNION SUPPLY GROUP, INC. shall attend an annual orientation program designated by the prison facility warden or the Director of INDUSTRIES. Training records will be kept by INDUSTRIES to meet ACA standards. UNION SUPPLY GROUP, INC. employees shall cooperate in any way feasible and shall immediately notify correctional officers of any security problems that come to their attention. All UNION SUPPLY GROUP, INC. personnel shall comply with the written policies and procedures of the New Mexico Corrections Department and the Laws of the State of New Mexico. UNION SUPPLY GROUP, INC. personnel who fail to comply with Corrections Department policies and procedures or otherwise are disruptive to the operation of the prison facility may have their security clearances revoked by the PNM Warden or his designee.
47. **SECURITY CLEARANCES AND BACKGROUND CHECKS:** UNION SUPPLY GROUP, INC. and its employees, agents, or independent agents agree to cooperate with and abide by any and all rules and regulations set forth by the New Mexico Corrections Department so as not to interfere with the daily operations of the NMCD or to jeopardize the health and safety of any employees, inmates or the general public. UNION SUPPLY GROUP, INC. and its employees, sub-UNION SUPPLY GROUP, INC.'s, or their agents who will have access to NMCD properties and inmates are subject to security clearances and/or background checks.

Any security clearances and/or background checks required by the NMCD for UNION SUPPLY GROUP, INC.'s employees, UNION SUPPLY GROUP, INC.'s agents, employees or other agent must be obtained prior to commencement of the job. NMCD reserves the right to deny any employee, agent, or independent agent of UNION SUPPLY GROUP, INC. access to NMCD property should that individual fail the criteria required for the security clearance or be found to be in violation of NMCD policies and procedures.

NMCD reserves the right to provide and escort and/or require full time supervision for UNION SUPPLY GROUP, INC. and its employees, agents, or independent agents during any or all phases of a project should user agency feel it is necessary.

NMCD reserves the right to escort any employee, subcontractor or other agent of UNION SUPPLY GROUP, INC. off of NMCD property for any inappropriate conduct or actions that jeopardizes the safety, security, or well-being of the facility. If such conduct or action should occur, then, this agreement may be canceled immediately.

48. COOPERATION WITH NMCD INVESTIGATIONS: In addition to the foregoing, the UNION SUPPLY GROUP, INC. must furnish all information and reports required by, or pursuant to, the rules, regulations, and policies of the NMCD, and will permit access to, and the interview of, its employees, subcontractors or other agents as well as the examination and copying of its records unless such materials are legally privileged by the NMCD Office of Professional Standards, the Security Threat Intelligence Unit and the Equal Employment Opportunity Officer and by investigators for the United States Department of Justice, the New Mexico Department of Public Safety, the New Mexico General Services Department, Risk Management Division, and/or the New Mexico Workforce Solutions Department, and will otherwise fully cooperate with any such investigation. Any willful violation of this requirement will be grounds for immediate termination of this agreement and removal of the UNION SUPPLY GROUP, INC. from the property.
49. PRISON RAPE ELIMINATION ACT (PREA) STANDARDS:
Any contractor providing services to NMCD who has direct contact with inmates or parolees who are in the care and custody of the State of New Mexico, shall adhere to and require its employees, sub-contractors, or other agents as well as the examination and copying of its records unless such materials are legally privileged by the NMCD Office of Professional Standards, the Security Threat Intelligence Unit and the Equal Employment Opportunity Officer and by investigators for the United States Department of Justice, the New Mexico Department of Public Safety, the New Mexico General Services Department, Risk Management Division, and/or the New Mexico Workforce Solutions Department, and will otherwise fully cooperate with any such investigation. Any willful violation of this requirement will be grounds for immediate termination of this agreement and removal of UNION SUPPLY GROUP, INC. from the property.
50. INMATE COUNTS: Normal counts of inmates employed by the canteen operation will be conducted on site and should not interfere with the work in progress. In the event that emergency counts are necessary, the warden of the prison facility will make a good faith effort not to disrupt work in progress. The warden or his designee of the prison facility reserves the right to order all inmates employed by the UNION SUPPLY GROUP, INC. to report to another location if necessary to complete such counts. The warden shall make a good faith effort to provide for uninterrupted work time. When possible, the warden will arrange for inmates employed in this program to schedule counseling and other such visits so that they will not interfere with the normal work schedule.
51. TOOLS AND EQUIPMENT: Any tools or equipment provided by UNION SUPPLY GROUP, INC. shall remain the responsibility and property of UNION SUPPLY GROUP, INC. and shall be removed by UNION SUPPLY GROUP, INC. at the termination of this AGREEMENT if so requested by the Director of Corrections Industries or designee. An accurate daily tool inventory shall be maintained by UNION SUPPLY GROUP, INC. and subject to review on request of the warden or his designee. A copy of the inventory and all revisions thereto shall be submitted monthly to the deputy warden of the PNM Level II. Any items other than those necessary for canteen operations brought into the institution by UNION SUPPLY GROUP, INC. must have

advance approval by the warden or his designee. UNION SUPPLY GROUP, INC. shall report the disappearance of any property to the warden or his designee immediately.

52. AUDITS: INDUSTRIES will retain for inspection and audit by the State Auditor's Office all checks, accounts, reports, files and other records relating to the performance of this AGREEMENT for a period of five (5) years after its completion. The original of all such records shall also be available and produced for inspection and audits when required by the State Auditor to verify authenticity of copy.
53. RULES AND REGULATIONS: UNION SUPPLY GROUP, INC. shall agree to comply with all prevailing and relevant local, state and federal occupational health and safety codes, regulations and procedures.
54. POLICIES AND PROCEDURES: UNION SUPPLY GROUP, INC. and its employees, agents and lessees shall at all times observe all security policies and procedures of the institution and any emergency procedures of the institution and any emergency procedures that the warden shall temporarily stipulate.
55. FACILITY LOCKDOWNS: In the event of a lock down of inmates at the PNM, inmates employed by the canteen operations will be permitted to work if it is deemed feasible by the warden of the facility. The warden shall make a good faith effort to grant such permission so that the work activity is not unduly disrupted. The decision of the warden will be subject to review by the Secretary of Corrections or her designee. The decision of the Secretary or her designee is final.
56. NOTIFICATION: UNION SUPPLY GROUP, INC. will notify the INDUSTRIES of any operations problems pursuant to this AGREEMENT. If either party believes the other party has violated the terms of this AGREEMENT, the party having such belief shall notify the other party, in writing, of the alleged violation. The parties shall then meet and confer on the issue within seven (7) days of receipt of the written notice. (Both parties agree to make a good faith effort to resolve any problems resulting from this AGREEMENT as promptly as possible.
57. BREACH OF CONTRACT: In the event of a material breach of this AGREEMENT by either party, the non-defaulting party shall give thirty (30) days written notice to the defaulting party to cure the default or breach before this AGREEMENT may be terminated. If the breach or default is such that it cannot reasonably be cured within thirty (30) days (not including monetary defaults), but the defaulting party begins diligent pursuit of a cure upon receipt of written notice, then such additional time as may reasonably be required should be allowed to effect such cure, but in any case the contract will be terminated if the breach persists for ninety (90) days total.

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LN WITNESS THEREOF, the parties hereto have set their hands and seals.



**LD Hay, Executive Vice President
UNION SUPPLY GROUP, INC.**

7/12/2021

Date



**Alisha Tafoya Lucero, Cabinet Secretary
New Mexico Corrections Department**

July 21, 2021


Date



**Robert Leon, Director
Corrections Industries Division**

7-12-21

Date



**As to Legal Sufficiency
Brianne Bigej, General Counsel
Corrections Department**

12 July 2021

Date

ATTACHMENT "A" - SCOPE OF WORK

SCOPE OF WORK: UNION SUPPLY GROUP, INC. will partner with the New Mexico Corrections Industries Division to establish and maintain an inmate commissary program on the grounds of the Penitentiary of New Mexico in Santa Fe. Its responsibilities in doing so include, without limitation, the following.

A) Provide INDUSTRIES approved commissary products for sale to the inmates at fair market value to all of the New Mexico state prison facilities in Santa Fe, Los Lunas, Springer, Grants, Roswell, Clayton and Las Cruces. Additionally, the UNION SUPPLY GROUP, INC. shall provide commissary products to the New Mexico private prisons in Grants, Hobbs, Otero County and Santa Rosa.

B) Provide delivery of all commissary products to the New Mexico state prison facilities in Santa Fe, Los Lunas, Springer, Grants, Roswell, Clayton and Las Cruces. Additionally, UNION SUPPLY GROUP, INC. shall deliver all commissary products to the New Mexico private prisons in Grants, Hobbs, Otero County and Santa Rosa. Delivery of commissary provided products to New Mexico prisons will be carried out with vehicles owned, operated, and maintained by UNION SUPPLY GROUP, INC.

C) Provide a method for inmates to order commissary products that contains inmate ordering solutions which are efficient and cost effective. Union Supply Group will supply an automated method for inmate ordering that utilizes either phone, kiosk, or tablet technology as well as a backup method for ordering.

D) Provide a process for the procurement of Holiday Packages purchased by family members up to 5 times per year per inmate to the New Mexico state prison facilities in Santa Fe, Los Lunas, Springer, Grants, Roswell, Clayton and Las Cruces. Additionally, the UNION SUPPLY GROUP, INC. shall provide Holiday Packages to the New Mexico private prisons in Grants, Hobbs, Otero County and Santa Rosa. Distribution of holiday packages will follow the same procedures established for regularly weekly commissary product distribution.

E) Be responsible for the interface with CMIS (Corrections Management Inmate System), or any updated or replacement system, to the New Mexico state prison facilities in Santa Fe, Los Lunas, Springer, Grants, Roswell, Clayton and Las Cruces. Additionally, the UNION SUPPLY GROUP, INC. must be prepared to provide interface capabilities to the New Mexico private prisons in Grants, Hobbs, Otero County and Santa Rosa.

Inmate location/assignment data, trust account balances and order reconciliation must be included to ensure a successful ongoing interface. Once the interface is complete and functioning to the satisfaction of the NMCD IT Division then reporting capabilities must be able to provide on demand reporting that includes order details, fulfillment status, product substitutions, individual inmate total dollars spent within any given date range, totals spent by facility, and the ability to reconcile data conflicts between initial orders compared to shipment of orders. Union Supply Group will provide the technical resources to create, manage and maintain an operable interface with reporting as outlined.

Although a current list of prisons is available for integration integrity vendor must be able to modify integration needs based on new and additional prison facilities and/or the closure of existing facilities.

Work with Industries and NMCD IT to develop a solution for the transfer of inmate trust funds for product procured by the inmate directly to Union Supply Group.

A mechanism to provide additional valued added services as proposed to include communal tablets, tablets for purchase, content and communication and deposit services must be reviewed by the NMCD IT Director, Director of Adult Prisons, and Corrections Industries Director for the most efficient and effective implementation.

F) Provide a Corrections Industries approved Property Program for the New Mexico state prison facilities in Santa Fe, Los Lunas, Springer, Grants, Roswell, Clayton and Las Cruces. Additionally, the UNION SUPPLY GROUP, INC. shall provide a Corrections Industries approved Property Program for the New Mexico private prisons in Grants, Hobbs, Otero County and Santa Rosa.

G) Provide consumables/food products for employee benefit and use to the New Mexico state prison facilities in Santa Fe, Los Lunas, Springer, Grants, Roswell, Clayton and Las Cruces. Additionally, respondent must be prepared to provide consumables/food products for employee benefit and use to the New Mexico private prisons in Grants, Hobbs, Otero County and Santa Rosa. An onsite evaluation of each prison facility will take place under the direction of the Corrections Industries Director (or his designee) along with the Warden (or his/her designee) and a Union Supply Group employee to determine the most efficient and effective set up of machinery and products for the benefit of prison staff.

H) Provide a training certification program for all inmates employed with the commissary program. Training program curriculum, implementation and monitoring is to be reviewed and approved by the Corrections Industries Director.

I) Provide financial documentation and other records necessary for ACA accreditation in regards to the commissary operation to Corrections Industries.

J) Provide a solution for the on-site distribution of products at each state and private prison facility in the state of New Mexico with regard to the purchased products for the inmate population. Onsite distribution will be handled by Union Supply Group staff and procedures for onsite distribution will be reviewed and approved by the Corrections Industries Director and the local warden.