

**INTERGOVERNMENTAL AGREEMENT FOR THE IMPLEMENTATION
OF THE INTERSTATE CORRECTIONS COMPACT**

This AGREEMENT is made and entered into between the Commonwealth of Pennsylvania acting through the Department Corrections ("Pennsylvania") and the State of Delaware acting through the Department of Correction ("Delaware") to provide for and facilitate the transfer of inmates pursuant to, and in accordance with, the provisions of the Interstate Corrections Compact enacted by Pennsylvania as the Act 33 of 2009, P.L. 147, §7, codified at 61 Pa. C.S. § 7101 *et seq.* and by Delaware as 11 *Del. C. § 6507 et seq.*

The parties hereto agree as follows:

**ARTICLE I
INTERSTATE CORRECTIONS COMPACT**

- 1.1 The provisions of the Interstate Corrections Compact (hereinafter "COMPACT") are hereby made an integral part of this AGREEMENT.
- 1.2 No provision of this AGREEMENT shall be construed in a manner inconsistent with the COMPACT.

**ARTICLE II
TERMINOLOGY**

- 2.1 All terms defined in the COMPACT and used in this AGREEMENT shall have the same meaning in this AGREEMENT as in the COMPACT.
- 2.2 The terms "sending state" and "receiving state" include and refer to the appropriate official or agency thereof in each particular case. For purposes of this AGREEMENT, Delaware is the sending state and Pennsylvania is the receiving state.
- 2.3 The term "Institution" shall be construed to include all facilities normally used by the respective state correctional agency for the care and custody of inmates whether or not such facilities are owned, operated or under the exclusive control of the respective state agency.

**ARTICLE III
DURATION**

- 3.1 This AGREEMENT shall become effective upon complete execution by all persons or entities indicated on the signature page and delivery of a fully executed document to the respective parties.

- 3.2 This AGREEMENT shall remain in effect for a time period of 2 years or until terminated on notice from either party in accordance with Article IV. This AGREEMENT may be extended by three (3) additional one (1) year terms upon the signed written agreement of the parties.

ARTICLE IV TERMINATION

- 4.1 This AGREEMENT may be terminated by written notice of either party.
- 4.2 Termination by notice of either party shall become effective one hundred and eighty (180) days after receipt of written notice of termination.
- 4.3 Delaware shall be responsible for expenses relating to the return of Delaware inmates upon the termination of the AGREEMENT.
- 4.4 If this AGREEMENT extends into more than one fiscal year of the State of Delaware (July 1 to June 30), and if appropriations are insufficient to support this AGREEMENT, Delaware may terminate the AGREEMENT at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority.
- 4.5 Upon Notice of termination of the AGREEMENT, the sending state shall no longer send inmates to the receiving state, and will begin to draw down the number of inmates housed by the receiving state under this AGREEMENT.
- 4.6 Notwithstanding any other provision of this AGREEMENT, if this AGREEMENT is terminated by either party, the requirement to pay any amounts due to the receiving state for services rendered or reimbursable expenses incurred shall survive.

ARTICLE V NOTICE

- 5.1 All notices, reports, billing, and correspondence required by this AGREEMENT shall be in writing sent to the below-listed addresses:

PENNSYLVANIA

Director
Pennsylvania Department of Corrections
Office of Population Management
1920 Technology Parkway
Mechanicsburg, PA 17050
PH: (717) 728-2817
Fax: (717) 728-4180
E-mail: erinbrown@pa.gov

DELAWARE

Heidi R. Collier
Delaware Department of Correction
Director of Special Programs
Classification Administrator
245 McKee Road
Dover, DE 19904
Office: 302-857-5218
Email: Heidi.collier@state.de.us

- 5.2 Notwithstanding the provisions of Section 5.1, the parties may give written notice that particular correspondence pertaining to specific matters be directed to other appropriate officials and addresses or may designate new contacts for all contractual notices. The parties shall comply with such direction without requirement of written modification of Article XXXIV.
- 5.3 Unless a particular means of giving notice is specified in this or any other article of the AGREEMENT, notice of any matter for which one party must give notice to the other shall be deemed as given when the receiving party has actual knowledge of the matter.

**ARTICLE VI
OTHER ARRANGEMENTS UNAFFECTED**

- 6.1 Nothing contained in this AGREEMENT shall be construed to abrogate or impair any agreement or other arrangement for the confinement, rehabilitation or treatment of inmates now in effect between the parties to this AGREEMENT.
- 6.2 Nothing contained in this AGREEMENT shall be construed to abrogate or impair any other agreement or other arrangement for the confinement, rehabilitation or treatment of inmates now in effect between one of the party signatories to this AGREEMENT and the federal government, any other state, a governmental subdivision of any other state, or any private entity.

**ARTICLE VII
INTERNAL RELATIONS**

- 7.1 Nothing in this AGREEMENT shall be construed to affect the internal relations of the party states and their respective officers, subdivisions, departments, or agencies.

**ARTICLE VIII
GOVERNING LAW**

- 8.1 Except as otherwise provided by applicable law, inmates from the sending state, while in the custody of the receiving state pursuant to this AGREEMENT, shall be subject to all laws and regulations of the receiving state applicable to persons committed for violation of law of the receiving state which are not inconsistent with the sentence imposed by the sending state.

**ARTICLE IX
VACANCIES**

- 9.1 Pennsylvania agrees to make available up to a maximum of three hundred thirty (330) bed spaces at its State Correctional Institutions ("SCIs") for inmates transferred from Delaware. Delaware inmates will be male inmates and may be housed at any SCI in Pennsylvania. Pennsylvania reserves the right to return in its sole discretion any inmate sent to or housed in Pennsylvania under this AGREEMENT.

**ARTICLE X
RIGHT OF INSPECTION/STAFF PRESENCE**

- 10.1 The sending state shall at all reasonable times have access to any institution in the receiving state in which inmates of the sending state are or may be confined, for the purpose of inspecting the facilities thereof, and verifying that the treatment, care and discipline such inmates have received or are receiving is not incompatible with that which the sending state provides. This right of inspection includes the right to visit and privately interview inmates of the sending state confined therein pursuant to this AGREEMENT. This Article does not impose any duty on the sending state to conduct such inspections.
- 10.2 Delaware may, at its expense, assign staff to work at SCI where Delaware inmates are housed. The designated Delaware staff will act as contract monitor(s), caseworkers and/or liaison(s) between the parties. Caseworkers and/or other appropriate Delaware staff will be given access to Program Review Committee ("PRC") review of segregation cases involving Delaware inmates. Pennsylvania agrees to provide such staff with reasonable and appropriate office space, and other necessary administrative support, as is mutually agreeable to both parties.

**ARTICLE XI
APPLICATION**

A. Transfer of Inmates:

- 11.1 The sending state will submit a separate application to the receiving state for each individual inmate proposed for transfer commitment.

- 11.2 For inmates transferred under this AGREEMENT, at least three (3) weeks prior to the anticipated transfer date, the sending state will provide to the receiving state:
- a) Complete information and all necessary documents relating to the case history, including, but not limited to:
 - 1) record of adjustment in the sending state's correctional facilities, to include:
 - i) Case notes (back one year)
 - ii) No-contacts (separations)
 - iii) Criminal record information, including affidavits, detainers and current Mittimus
 - iv) Education level
 - v) Substance abuse
 - vi) Program participation
 - vii) Living skills
 - viii) Family/community ties
 - ix) PREA assessment information
 - 2) misconduct (ten-year disciplinary history);
 - 3) escape history;
 - 4) security threat group information; and
 - 5) Sentence computation;
 - b) Physical and clinical records.
 - 1) Such records shall include, but not be limited to, a summary of:
 - i) any current medical or mental health/psychological condition requiring treatment, including, but not limited to, suicide attempts;
 - ii) any open consults for specialty care or any other medical or mental health condition;
 - iii) any medical admission testing performed by the sending state and the results of those tests, including, but not limited to, hepatitis, HIV/AIDS, hemophilia, multiple sclerosis, pulmonary arterial hypertension, tuberculosis, or other infectious disease testing; and
 - iv) notice of current or previously administered medications.
 - v) a one year history of medical and mental health care records
 - 2) The dissemination of physical and clinical records by the receiving state shall be in accordance with governing law of the sending state and governing federal law;
 - c) Judicial and administrative rulings and orders relating or pertinent to the inmate and the sentence or sentences pursuant to which confinement is to be had or to continue; and
 - d) Identification data, photographs and, if available, fingerprints.
- 11.3 The receiving state will provide a written response to the sending state accepting or declining the proposed transfer candidate(s).
- 11.4 Upon transfer, the sending state will provide the receiving state with at least ten (10) days of any prescribed or required medication for each inmate transferred.

- 11.5 Inmates transferred pursuant to this section who have or who develop hepatitis, HIV/AIDS, hemophilia, multiple sclerosis, pulmonary arterial hypertension, or a mental health condition that requires long-term mental health commitment may be returned to the sending state by the receiving state or the parties may arrange for additional costs to be paid by the sending state commensurate with the costs associated with care provided to treat said conditions on a case-by-case basis.

ARTICLE XII DELIVERY OF INMATE

- 12.1 Responsibility for transportation (delivery and re-taking of inmates) and associated costs for transportation shall be as follows:
- a. Initial transfer
 - i. Delaware will be responsible to arrange for initial transport of Delaware inmates to SCI Camp Hill.
 - ii. Delaware and Pennsylvania shall mutually agree upon the number of inmates to be included and the delivery day for each transport.
 - b. Upon expiration or termination of this AGREEMENT, Delaware will, at its cost, transport all Delaware inmates who had been transferred to Pennsylvania under this AGREEMENT.
 - c. Upon expiration or termination of this AGREEMENT, Pennsylvania will designate and move inmates to one location for pick-up by Delaware, unless the parties agree otherwise.

ARTICLE XIII TRANSFER OF FUNDS

- 13.1 Funds due transferred inmates shall be provided by the sending state to be credited to the account of the transferred inmate in the receiving state. Upon the return of the inmate to the sending state, or upon release, the receiving state shall provide funds to the sending state in the amount due the inmate at the time of the return or release.
- 13.2 The receiving state shall, upon direction of the sending state and the presentation by the sending state of the appropriate documents, make monetary deductions from the account of an inmate from the sending state for the purpose of restitution or payment of other costs, and send such funds to the sending state or to another entity as specified by the sending state.

ARTICLE XIV RESPONSIBILITY FOR OFFENDER'S CUSTODY

- 14.1 Upon delivery of an inmate, the receiving state shall do the following or ensure that the following is done; confine the inmate; give the inmate care and treatment, including the furnishing of subsistence and all necessary medical and hospital services and supplies; provide for the inmate's physical needs; make available to the inmate training and treatment programs consistent with the inmate's risk level and needs and the receiving state's resources; retain the

inmate in safe custody; supervise the inmate; maintain proper discipline and control over the inmate; make certain the inmate receives no special privileges; and faithfully execute the sentences and orders of the committing court in the sending state.

- 14.2 The sending state is responsible for interpreting sentences of the committing courts of the sending state and shall furnish all necessary documents and provide technical advice to the receiving state when necessary.
- 14.3 Unless otherwise provided, this AGREEMENT shall not be construed to require the receiving state or any of its institutions to provide treatment, facilities or programs for the inmates confined pursuant to this AGREEMENT which it does not provide for similar inmates not confined pursuant to this AGREEMENT.
- 14.4 The receiving state will not allow inmates of the sending state to have conjugal contact visits.
- 14.5 Pennsylvania shall provide Delaware inmates with a nutritionally balanced, varied diet of adequate portions of food pursuant to standards established by the American Correctional Association ("ACA.") All menus will be approved by a registered dietician or nutritionist and all meals will be prepared in compliance with the approved menus. Pennsylvania shall provide special meals which meet the medical or the religious requirements of applicable Delaware inmates. Special medical meals must meet the nutritional requirements as prescribed by a medical doctor.

ARTICLE XV INSTITUTIONAL TRANSFERS

Internal Inmate Transfers:

- 15.1 The receiving state may transfer an inmate from one institution to another whenever it deems such action appropriate.
- 15.2 The receiving state shall not transfer an inmate to an institution outside of its territorial borders.

ARTICLE XVI REMOVAL FROM INSTITUTION

- 16.1 No inmate from the sending state legally confined in the institutions of the receiving state shall be removed therefrom without prior written approval from the sending state.
- 16.2 Section 16.1 shall not apply to an emergency necessitating the immediate removal of the inmate for medical, psychiatric or dental care, or to a removal made necessary by fire, flood, earthquake or other catastrophe or condition presenting imminent danger to the safety of the inmate. In the case of any removal for such emergency cause, the receiving state shall inform the sending state of the destination or location of the inmate so removed at the earliest practicable time, and shall exercise all reasonable care for the safekeeping and custody of such inmate.

**ARTICLE XVII
MEDICAL SERVICES**

- 17.1 Inmates from the sending state shall receive such medical, psychiatric and dental services and treatment as may be necessary to safeguard their health. The costs of such medical, psychiatric or dental services and treatment shall be considered normal costs incidental to the operation of the institution in the receiving state if:
- a) the service is rendered by staff personnel or on-site contract comprehensive health care providers;
 - b) in regularly maintained facilities operated or utilized by the institution as part of the health or correctional program thereof; and
 - c) the inmate requires no special medication, drugs, equipment, anesthetics, surgery or nursing care in addition to that commonly available on an infirmary basis.
 - d) notwithstanding the foregoing, costs of medical, psychiatric or dental services and treatment shall also be considered normal costs incidental to the operation of the institution if the treatment or service is included in the receiving state's per diem rate to its contracted comprehensive health care provider and such treatment or service will not result in any charges to the receiving state over and above what the receiving state pays to its contracted comprehensive health care provider by virtue of payment of the per diem rate.

The costs of any services, medication, equipment, surgical or nursing care that is not incidental to the operation of the institution as delineated above, shall be reimbursed to the receiving state by the sending state. The receiving state shall bill the sending state for such reimbursement as specified in Section 30.2 of this AGREEMENT. Payment of costs related to inpatient hospitalization shall be referred to the sending state.

- 17.2 Unless an emergency is involved, the receiving state shall contact the sending state for advance authority in writing before incurring medical, psychiatric or dental expenses for which the sending state is responsible under the terms of this AGREEMENT. In the event the sending state and the receiving state cannot agree on the need for incurring such expenses, the sending state shall be required to retake the inmate as soon as is possible. In the absence of an emergency, the sending state will not be obligated to reimburse the receiving state for the costs of such additional care or treatment undertaken without the prior approval of the sending state. In an emergency, the receiving state may proceed with the necessary treatment without prior authorization, but in every such case, the receiving state shall notify the sending state immediately and furnish full information regarding the nature of the illness or injury, the type of treatment to be provided, and the estimated cost thereof.

**ARTICLE XVIII
TRAINING AND EMPLOYMENT**

- 18.1 Inmates from the sending state shall be afforded the opportunity and shall be required to participate in programs of occupational training or industrial and other work on the same basis as inmates of the receiving state. Compensation in connection with such participation (whether as payment, incentive or for therapeutic or rehabilitative reason) shall be paid to inmates of the sending state on the same basis as to inmates of the receiving state. Inmates of the sending state shall be subject to the regular work discipline imposed upon other inmate participants in the particular program. This AGREEMENT shall not be construed to permit or require

inmates from the sending state to participate in training, industrial or other work programs contrary to the laws of the sending state.

- 18.2 The receiving state shall have the right to dispose of all products produced by an inmate, shall retain all proceeds therefrom and shall bear all costs of such program.
- 18.3 In the case of handicraft or hobby craft programs, the product of the inmate's labor and the proceeds of any sale of the inmate's work shall be handled in accordance with the rules of the receiving state.

ARTICLE XIX CONFIDENTIALITY

- 19.1 In order to facilitate the transfer of Delaware's inmates to Pennsylvania, Pennsylvania agrees to provide Delaware copies of all relevant policies, including confidential Pennsylvania Department of Corrections policies. Delaware agrees to maintain the confidentiality of all confidential Pennsylvania policies. Delaware agrees to guard the confidentiality of Pennsylvania's confidential policies with the same diligence with which it guards its own confidential or proprietary information. Delaware shall not disclose anything regarding Pennsylvania's confidential policies to any other person or entity not directly affiliated with the parties and necessary to effectuate the terms of this AGREEMENT, unless legally compelled to do so., and then, only upon timely notice to Pennsylvania, giving it sufficient time to contest any such disclosure as permitted by law. Pennsylvania recognizes the confidentiality of Delaware Department of Correction records as set forth in 11 *Del. C.* § 4322(a) and acknowledges that such records are not subject to a Freedom of Information Act or a public records law request..

ARTICLE XX DISCIPLINE

- 20.1 Inmates in the custody of the receiving state shall be subject to the receiving state's internal rules and regulations governing discipline and disciplinary sanctions. However, nothing in this AGREEMENT shall be construed to authorize or permit the imposition of a type of discipline prohibited by the laws of the sending state.

ARTICLE XXI HEARINGS

- 21.1 The receiving state shall provide adequate facilities for hearings by authorities of the sending state to which an inmate may be entitled by the laws of the sending state.
- 21.2 Upon the request of the sending state, the authorities of the receiving state will be authorized to and will conduct such hearings, and will prepare and submit the record of those hearings together with any recommendations of the hearing officials to the officer or officers of the sending state before whom the hearings would have been held if occurring in the sending state. The sending state shall provide the receiving state with a copy of its rules and regulations relating to such hearings.

**ARTICLE XXII
ACCESS TO COURT**

- 22.1 Confinement in the receiving state will not deprive any inmate of the sending state of any statutory or constitutional right which he would have if confined in the sending state.
- 22.2 The sending state shall undertake to defend against all actions or proceedings relating to the legality of detention, sentences, calculation of sentences, transfer procedure and/or alleged prejudice due to the incarceration in another state.
- 22.3 The receiving state shall defend, at its expense, any actions by an inmate of the sending state which challenge conditions of confinement or other cause of action which may accrue to the inmate based upon occurrences in or through the alleged fault of the receiving state.
- 22.4 The sending state and the receiving state shall cooperate with each other in the defense of transfer-related litigation.
- 22.5 The sending state shall provide the inmates it has transferred to the other state with the same access to the courts it has provided to inmates in the sending state or in such manner as deemed appropriate by the sending state.
- 22.6 Delaware designates a Paralegal III in the Office of the Commissioner as its point of contact regarding Delaware-specific legal resources not otherwise available to Delaware inmates in Pennsylvania DOC custody.

**ARTICLE XXIII
PHOTOGRAPHING AND PUBLICITY**

- 23.1 Institutional or other officials of the receiving state shall not be authorized to release any publicity or information concerning inmates from the sending state. They shall not release personal histories or photographs of such inmates or information concerning their arrival or departure or permit reporters or photographers to record or photograph such inmates. Requests for information regarding inmates of sending states shall be referred to the sending state.
- 23.2 Notwithstanding Section 23.1, information of public record, such as sentence data or information concerning the escape of an inmate including identifying photographs, may be given directly to the press by the receiving state. The receiving state may photograph inmates from the sending state as means of identification for official use only.
- 23.3 Nothing in this Article or AGREEMENT prevents official use of any information regarding an inmate of the sending state.

**ARTICLE XXIV
ESCAPE**

- 24.1 If an inmate from the sending state escapes from custody in the receiving state, the receiving state shall use all reasonable means to recapture the inmate. The receiving state shall have the primary responsibility for directing the pursuit and recapture of inmates within its own territory. All costs in connection therewith shall be chargeable to and borne by the receiving state.

- 24.2 The escape of a sending state inmate shall be reported immediately to the sending state.
- 24.3 The sending state shall have the ultimate responsibility for initiation of extradition or rendition proceedings in the event the inmate is apprehended in a jurisdiction other than the receiving state. The sending state may delegate this responsibility to the receiving state, if the receiving state agrees.
- 24.5 Copies of all warrants relative to the escape shall be forwarded to the sending state within five (5) working days of the inmate's escape. Copies of all ongoing reports regarding the escape shall be provided to the sending state as said documentation is generated.

**ARTICLE XXV
DEATH OF INMATE**

- 25.1 In the event of the death of an inmate from the sending state, the medical examiner, coroner or other official having the duties of such an officer in the jurisdiction of the receiving state shall be notified. The sending state shall receive copies of the records made in connection with such notification.
- 25.2 The institution in the receiving state shall immediately notify the sending state of the death of the inmate, furnish information as requested and follow the instructions of the sending state with regard to the disposition of the body. The body shall not be released except on order of the appropriate officials of the sending state.
- 25.3 Relatives of a deceased inmate are to be notified by the sending state as soon as practicable after the death of the inmate. Upon notification that the body has been released the sending facility will work with the next of kin to have the body removed from the receiving state to a funeral home. All expenses relative to any necessary preparation of the body and shipment or express charges shall be paid by the sending state. The provisions of this section shall govern only the relations between the party states and shall not affect the liability of any relative or other person for the disposition of the deceased or for any expenses connected therewith.
- 25.4 The receiving state shall transmit a certified copy of the death certificate to the sending state.

**ARTICLE XXVI
SIGNATURE IN COUNTERPARTS**

- 26.1 This AGREEMENT may be executed in counterparts, each of which when executed and delivered will constitute an original, but all counterparts together will constitute one and the same instrument.

**ARTICLE XXVII
RETAKE OF INMATES**

- 27.1 The sending state may retake any inmate from the receiving state upon demand made to the receiving state and presentation of official written authority to receive such inmate. All costs incurred in such delivery will be the responsibility of the sending state and where necessary, the receiving state shall bill the sending state for such costs as specified in Section 30.2 of this AGREEMENT.

- 27.2 Upon written request of the receiving state, the sending state will retake, at its own expense, any inmate within thirty (30) days after receipt of the request to retake.
- 27.3 Notwithstanding section 27.1, if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense.
- 27.4 In case the commitment under which any inmate from the sending state is terminated for any reason, the sending state agrees to retake the prisoner at the institution of the receiving state.
- 27.5 Notwithstanding section 27.4, an inmate may be released outside the territory of the sending state at the termination of his or her commitment by express written agreement of the inmate and the responsible state agencies in the receiving and sending states.
- 27.6 When the sending state retakes an inmate the receiving state will provide inmate's property, funds from their inmate account, the complete file of the inmate including, a medical records summary, inmate records, records of adjustment and a ten (10) day supply of medications.

**ARTICLE XXVIII
SEXUAL ABUSE POLICIES**

- 28.1 Pennsylvania agrees to comply with all Prison Rape Elimination Act (PREA) related standards and procedures contained in Pennsylvania Department of Corrections Policy DC ADM 008 (Sexual Harassment of or Sexual Contact with Inmates Manual) with regard to the treatment of all inmates transferred to Pennsylvania by Delaware.

**ARTICLE XXIX
RECORDS AND REPORTS FROM RECEIVING STATE**

- 29.1 The superintendent or other administrative head of an institution in which inmates from the sending state are confined shall keep all necessary and pertinent records concerning such inmates in a manner consistent with the keeping of records in the normal course of business of such institution. During the inmate's confinement in the institution, the sending state shall be entitled to receive, and upon request shall be furnished with, copies of such record or records. Nothing in this AGREEMENT shall be construed to prevent the receiving state or institutions thereof from keeping copies of such record or records upon and after termination of confinement.
- 29.2 Pennsylvania shall notify Delaware according to the contact list provided by Delaware as soon as reasonably possible, but no later than two hours after the start of an incident, by telephone or email for any incident listed below which involves a Delaware inmate:
- a) Inmate escape;
 - b) Use of deadly force;
 - c) Use of force in which there is an injury to a Delaware inmate requiring outside medical treatment;

- d) Alleged or known assault, including sexual assault, by an employee, inmate, or civilian;
- f) Disturbance involving three or more inmates which is not brought under control within 15 minutes;
- g) Death of an inmate;
- h) Property destruction rendering a living unit or support service area unusable;
- i) Hostage situation;
- j) Suicide attempt; or
- l) Transport to a hospital.

For most incidents, initial notice to Delaware may be via email. All incidents require Pennsylvania to follow-up with Delaware by emailing electronic copies of all reports and documentation associated with each incident. Documentation shall be provided to Delaware within 24 hours of a resolution of any incident, rendering a decision, disposition or processing an appeal. Copies of video evidence may be provided upon request.

- 29.3 No Delaware institutional records not already part of the public record received from the sending state, whether maintained separately from, commingled with, or incorporated into the records of the receiving state shall be released to, or made available for inspection or copying by any inmate from the sending state or the representative of such inmate or any other person during confinement in the receiving state or anytime thereafter without the express written authorization of the sending state. In the event records of the sending state are demanded pursuant to legal proceedings, the receiving state shall notify the sending state immediately and withhold such records pending response from the sending state, and shall cooperate in preserving the confidentiality and privileged status of such records unless and until required to release the records pursuant to valid subpoena or court order.
- 29.4 The sending state requires a monthly accounting of all program hours, all education hours, and all work hours, in order to calculate meritorious good time credits for each sending state inmate in the receiving state's custody. The receiving state shall submit this information to sending state by the seventh of every calendar month to Delaware Central Offender Records at: DOC_CRO@state.de.us and Kimberly.Reck@state.de.us.

ARTICLEXXX COST, REIMBURSEMENT AND BILLING

- 30.1 Delaware shall make payment to Pennsylvania at a *per diem* rate of one hundred and twenty three dollars (\$123.00). The *per diem* rate for the support of one inmate per day shall be charged for the day of the inmate's arrival but not the day of inmate's departure.
- 30.2 The per diem rate is subject to adjustment, effective May 1, 2019, and each succeeding May 1. The amount of adjustment will be determined through negotiations between the parties. Factors to be considered in any adjustment will include changes in the consumer price index and increases/decreases in the operating costs of the state's correctional system. The percentage increase for each adjustment will not exceed the percentage of increase in the consumer price index for all urban consumers (CPI-U) for the preceding calendar year.

- 30.3 The receiving state will bill the sending state on a monthly basis. Billing shall include an itemized accounting for charges above and beyond the current per diem cost. Reasonable efforts shall be made to provide reimbursements within forty-five (45) days of the receipt of the billing. The billing start date will coincide with the date inmates arrive in Pennsylvania.

ARTICLE XXXI

[Reserved]

**ARTICLE XXXII
RIGHT-TO-KNOW LAW**

- 32.1 (A) The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104 ("RTKL") applies to this AGREEMENT.
- (B) If Pennsylvania needs Delaware's assistance in any matter arising out of the RTKL related to this AGREEMENT, it shall notify Delaware using the contact information provided in this AGREEMENT. Delaware, at any time, may designate a different contact for such purpose upon reasonable prior written notice to Pennsylvania.
- (C) Upon written notification from Pennsylvania that it requires Delaware's assistance in responding to a request under the RTKL for information related to this AGREEMENT that may be in Delaware's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information") Delaware shall:
- 1) Provide Pennsylvania, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in Delaware's possession arising out of this AGREEMENT that Pennsylvania reasonably believes is Requested Information and may be a public record under the RTKL; and
 - 2) Provide such other assistance as Pennsylvania may reasonably request, in order to comply with the RTKL with respect to this AGREEMENT.
- (D) If Delaware considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that Delaware considers exempt from production under the RTKL, Delaware must notify Pennsylvania and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of Delaware explaining why the requested material is exempt from public disclosure under the RTKL.
- (E) Pennsylvania will rely upon the written statement from Delaware in denying a RTKL request for the Requested Information unless Pennsylvania determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should Pennsylvania determine that the Requested information is clearly not exempt from disclosure; Delaware shall provide the Requested Information within five (5) business days of receipt of written notification of the Pennsylvania determination.
- (F) Delaware may file a legal challenge to any Pennsylvania decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however,

Delaware will bear its own costs related to such action.

(G) Delaware's duties relating to the RTKL are continuing duties that survive the expiration of this AGREEMENT and shall continue as long as Delaware has Requested Information in its possession.

32.2 (A) The Delaware Freedom of Information Act ("FOIA"), 29 Del. C. § 10001, *et seq.*, applies to this AGREEMENT.

(B) If Delaware needs Pennsylvania's assistance in any matter arising out of FOIA related to this AGREEMENT, it shall notify Pennsylvania using the contact information provided in this AGREEMENT. Pennsylvania, at any time, may designate a different contact for such purpose upon reasonable prior written notice to Delaware.

(C) Upon written notification from Delaware that it requires Pennsylvania's assistance in responding to a request under the FOIA for information related to this AGREEMENT that may be in Pennsylvania's possession, constituting, or alleged to constitute, a public record in accordance with the FOIA ("Requested Information") Pennsylvania shall:

1) Provide Delaware, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in Pennsylvania's possession arising out of this AGREEMENT that Delaware reasonably believes is Requested Information and may be a public record under the FOIA; and

2) Provide such other assistance as Delaware may reasonably request, in order to comply with the FOIA with respect to this AGREEMENT.

(D) If Pennsylvania considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the FOIA, or other information that Pennsylvania considers exempt from production under the FOIA, Pennsylvania must notify Delaware and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of Pennsylvania explaining why the requested material is exempt from public disclosure under the FOIA.

(E) Delaware will rely upon the written statement from Pennsylvania in denying a FOIA request for the Requested Information unless Delaware determines that the Requested Information is clearly not protected from disclosure under the FOIA. Should Delaware determine that the Requested information is clearly not exempt from disclosure, Pennsylvania shall provide the Requested Information within five (5) business days of receipt of written notification of the Delaware determination.

(F) Pennsylvania may file a legal challenge to any Delaware decision to release a record to the public in the Delaware Courts; however, Pennsylvania will bear its own costs related to such action.

(G) Pennsylvania's duties relating to the FOIA are continuing duties that survive the expiration of this AGREEMENT and shall continue as long as Pennsylvania has Requested Information in its possession.

**ARTICLE XXXIII
THIRD-PARTY RIGHTS**

33.1 The parties to this AGREEMENT understand that this AGREEMENT does not create or intend to confer any rights in or on persons or entities not a party to this AGREEMENT.

**ARTICLE XXXIV
AMENDMENT AND MODIFICATION**

34.1 No modifications or amendments to this AGREEMENT shall be valid unless made in writing through a formal document and signed by the parties.

**ARTICLE XXXV
WAIVER**

35.1 Either party may elect not to enforce its rights and remedies under this AGREEMENT as to a breach by the other party of any term or condition of this AGREEMENT. In any event, the failure by either party to enforce its rights and remedies under this AGREEMENT shall not be construed as a waiver of any subsequent breach of the same or any other term or condition of this AGREEMENT.

**ARTICLE XXXVI
INTEGRATION AND MERGER**

36.1 This AGREEMENT, when executed, approved and delivered, shall constitute the final, complete and exclusive AGREEMENT between the parties containing all the terms and conditions agreed on by the parties.

36.2 All representations, understandings, promises and agreements pertaining to the subject matter of this AGREEMENT made prior to or at the time this AGREEMENT is executed are superseded by this AGREEMENT unless specifically accepted by any other term or provision of this AGREEMENT, except that this AGREEMENT does not supersede or affect the Interstate Corrections Compact that was entered between the parties on April 30th, 2001.

36.3 There are no conditions precedent to the performance of this AGREEMENT except as expressly set forth herein.

**ARTICLE XXXVII
CONSTRUCTION AND SEVERABILITY**

37.1 The provisions of this AGREEMENT shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this AGREEMENT is declared to be contrary to the Constitution of either participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this AGREEMENT and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this AGREEMENT shall be held contrary to the Constitution of either state participating herein, the AGREEMENT shall remain in full force and effect as to the state affected as to all severable matters.

**ARTICLE XXXVIII
SOVEREIGN IMMUNITY**

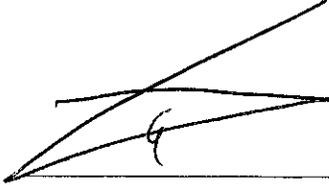
- 38.1 The Commonwealth of Pennsylvania possesses sovereign immunity under 42 Pa. C.S. Section 8521 et seq. The Commonwealth has established a Torts Claims Self Insurance Program to handle claims brought within the permissible exceptions to sovereign immunity. See Attachment A (Certificate of Insurance) and B (Management Directive 630.2 available http://www.oa.pa.gov/Policies/rnd/Documents/630_2.pdf).

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IN WITNESS WHEREOF, and intending to be bound hereby, the parties subscribe their signatures to this AGREEMENT.

COMMONWEALTH OF PENNSYLVANIA

STATE OF DELAWARE

 10/10/18

SECRETARY
DEPARTMENT OF CORRECTIONS

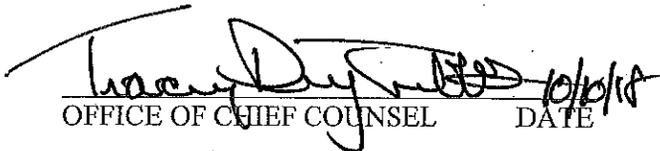
DATE

COMMISSIONER
DEPARTMENT OF CORRECTION

DATE

COMPTROLLER
DATE

APPROVED AS TO FORM AND LEGALITY

 10/10/18

OFFICE OF CHIEF COUNSEL
DATE

DEPUTY ATTORNEY GENERAL
DATE

 10/22/18

OFFICE OF GENERAL COUNSEL
DATE

 10/26/18

ATTORNEY GENERAL
DATE

