

**INTERGOVERNMENTAL AGREEMENT
BY AND BETWEEN
THE GEORGIA DEPARTMENT OF CORRECTIONS
AND
Effingham County Correctional Institution
Computer/Paper Based GED® Testing for Offenders**

THIS AGREEMENT is entered into the first day of July, 2023 by and between the GEORGIA DEPARTMENT OF CORRECTIONS, an agency of the State of Georgia (“Department”), and Effingham County a political subdivision of the State of Georgia (“County”), acting by and through its Board of County Commissioners, referred to individually as “Party” or together as “Parties.”

WHEREAS, the purpose of this Agreement is for the Department to provide paper based GED® testing services for offenders at Effingham County Correctional Institution, Springfield Georgia (“Testing Location”).

NOW, THEREFORE, in consideration of the premises and the mutual promises and agreements set forth below, the parties agree as follows:

1. Scope of Services. The Governmental Entity agrees to perform fully and faithfully the services described in Exhibit “A,” attached hereto and incorporated by reference herein (the “Services”). The Department and the Governmental Entity shall meet annually to review the Services. No additional or different services shall be performed unless provided for by an amendment to this Agreement, executed by the parties in the manner provided for herein.
2. Independent Contractor. In the performance of the services, and for all tax, liability, employment, and insurance purposes, Governmental Entity shall at all times be an Independent Contractor and not an agent, representative, or employee of the Department. Governmental Entity shall determine the means and manner of performance of its responsibilities, and Governmental Entity shall not hold itself out to be an employee or agent of the Department.
3. Compensation. The Department agrees to pay Governmental Entity in accordance with Exhibit “B” attached to this Agreement and incorporated by reference herein (the “Compensation Schedule”) for the full and faithful performance of the services under this Agreement during the term hereof. The Department shall pay Governmental Entity upon receipt of Governmental Entity’s invoice in approved form. The Department shall endeavor to pay approved invoices within 30 days of receipt; however, no interest shall accrue on past-due amounts. Governmental Entity acknowledges and agrees that the Department is authorized to withhold payments due the Governmental Entity until

Governmental Entity has filed with the Department the Governmental Entity's Taxpayer Identification Number. In addition, payments otherwise due the Governmental Entity may be withheld by the Department on account of the Services being deemed deficient by the Department and not remedied or for breach of any term of this Agreement. If the foregoing deficiencies are remedied, then withheld payments shall be made promptly, and if not remedied within a reasonable time, the Department may terminate this Agreement in the manner provided for herein. Payment request submitted thirty (30) days after the termination of this Agreement will not be paid by the Department.

4. Benefits. The Governmental Entity acknowledges that he is not entitled to any benefits, including health insurance, workers compensation coverage, unemployment compensation coverage, which are ordinarily provided to employees of the Department.

5. Pledges of Credit. Governmental Entity acknowledges that the State of Georgia may not lawfully pledge its credit so as to cause a State agency to incur a financial obligation unless funds to honor the obligation have been lawfully appropriated. In the event that the source of any payment by the Department as provided for herein is insufficient, in the sole discretion of the Department, this Agreement shall terminate without further obligation of the Department.

6. Expenses. The Department shall not be liable for and shall not reimburse Governmental Entity for any travel or other expenses incurred by the Governmental Entity unless approved in advance by the Department in writing. Any such reimbursement shall be made in accordance with and in amounts permitted by applicable state rules and regulations.

7. Equipment. The Department is not required to provide any office space nor any equipment to the Governmental Entity except as specifically provided under this Agreement.

8. Term and Amendment. This Agreement shall be effective as of the 1st day of July, 2023, and shall continue in full force and effect until 11:59 p.m. on June 30, 2024. Any changes, modifications, or amendments to this Agreement will be effective only if reduced to writing and signed by both parties.

9. Renewal. The Department shall have the option, exercisable in its sole discretion depending on the satisfactory performance and availability of funds, to renew this Agreement for up to four (4) terms. Each renewal term shall not exceed twelve months. The Department shall give the Governmental Entity no less than thirty (30) days' notice of its intent to renew. If renewed, renewal shall be upon the same terms and conditions. As to each term and subject to the termination provisions of this Agreement, the Agreement shall terminate absolutely and automatically at the close of the then-current term without further obligation by the Department. The original Agreement, applicable amendments and

any Agreement renewals shall bind the Department and the Governmental Entity. Upon the Department's election, in the Department's sole discretion, to renew any part of this Agreement, the Governmental Entity shall remain obligated to perform in accordance with this Agreement unless otherwise agreed in writing by the Department and the Governmental Entity.

10. Compliance with Laws. The Governmental Entity agrees to perform the Services in accordance with the terms and conditions of this Agreement and in compliance with all laws, rules, regulations and orders of federal, State and local governments, including orders of any court of competent jurisdiction and standard operating procedures of Department. Without limitation to the generality of the foregoing, Governmental Entity agrees to comply with any special conditions, undertakings or representations attached hereto, all of which form a part hereof.

11. Termination for Convenience. Either party may terminate this Agreement for any reason by providing written notice fourteen (14) days in advance of such termination. In the event of termination under this paragraph, the Department shall pay the Governmental Entity for Services that have been fully and faithfully performed prior to the effective date of termination; provided, however, that payments otherwise due the Governmental Entity may be applied by the Department against amounts due or claimed to be due the Department and, in addition, if termination is for cause, payments may be withheld by the Department on account of the Services being deemed deficient and not remedied by the Governmental Entity prior to the effective date of termination. Governmental Entity shall be liable to the Department for any additional cost incurred by the Department as a result of deficiencies in the Services to be provided hereunder.

12. Rights and Interests. This relationship is intended solely for the mutual benefit of the Parties, and there is no intention, express or otherwise, to create any rights or interests for any party other than the Department or Governmental Entity.

13. Conflicts of Interest. The Governmental Entity covenants that the Governmental Entity presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the Governmental Entity's services hereunder. The Governmental Entity further covenants that in the performance of this Agreement, the Governmental Entity will not employ any person having such an interest.

14. Trading with State Employees. The parties certify that this Agreement does not and will not violate the provisions of O.C.G.A. §45-10-20, *et seq.*, in any respect. The Governmental Entity agrees not to employ any individual that would result in a violation of this law.

15. Screening. Governmental Entity acknowledges and agrees that Governmental

Entity, including employees of Governmental Entity and subcontractor(s) of Governmental Entity, shall be subject to background investigations, including but not limited to criminal background investigations, conducted by duly authorized agents of the State, and while on the premises of any Department Facility, Governmental Entity and Governmental Entity's personnel shall be subject to, and agree to comply with, rules pertaining or related to safety and security, including spoken directives of GDC facility staff and the Department's standard operating procedures related to Employee Standards of Conduct and sexual harassment.

16. Training. In the event the Agreement is to perform Services at a Department facility, the Governmental Entity shall participate in Department and facility policy and procedure orientation which shall include but shall not be limited to institutional rules, security and operations. The Governmental Entity shall participate in any additional training as needed or appropriate to the services being rendered to the Department. The determination of additional training shall be solely determined by the Department.

17 Licenses, Certifications and Insurance. Governmental Entity agrees to maintain for the duration of this Agreement all licenses, certifications and permits applicable to the Services under this Agreement. Both parties acknowledge that each is self-insured through the Department of Administrative Services, and that neither shall be responsible for damages caused by the other.

18. Sexual Harassment Prevention. Both Parties acknowledge that they are subject to the Governor's Executive Order "Preventing Sexual Harassment in the Executive Branch of Government" signed January 14, 2019 and both parties agree to comply with the same.

18. Standards of Conduction and Sexual Harassment. Governmental Entity agrees that the Governmental Entity and any of its agents, employees, officials or subcontractors who enter any facility, institution, office or other premise of the Department or who come into contact with any employee of the Department shall comply with the Department's Policies and Procedures relating to Standards of Conduct and Sexual Harassment and shall follow all orders or directives given by Department personnel. If the Governmental Entity or any of its agents, employees, officials or subcontractors should be accused of violating any of these policies or procedures or otherwise violating this provision, then the Governmental Entity will allow and assist the Department in investigating the charge or accusation. If the charge is established or if the Governmental Entity, its agents, employees, officials or subcontractors is found guilty of sexual harassment disciplinary action, including dismissal and termination of the contract and/or services may be instituted by the Department. The Governmental Entity will take appropriate action to sanction the violation and to ensure that there are no further violations. The Department may also bar anyone from its premises whom it finds to have violated these policies or procedures or who has otherwise violated this provision. The Governmental Entity shall execute acknowledgements evidencing that it has been advised of the Department's Standard of

Conduct, Guidelines for Contract Personnel and Unlawful and Sexual Harassment Polices of the Department.

19. Confidentiality. Governmental Entity agrees to adhere to the Department's Confidentiality policy and procedures which have been or will be provided to the Governmental Entity in writing by the Department. Governmental Entity will hold in strictest confidence and will not disclose to others for any reason whatsoever, any works, writings, plans, proposals, documents, contracts, records, data, analyses, compilations, forecasts, studies, reports, recordings, maps, or other information or material received or prepared by Governmental Entity (collectively, the "Information"), except to the extent that such Information (a) is otherwise available from third persons without restriction on its further use or disclosure, (b) is required by order of any court or by law (including but not limited to the Georgia Open Records Act) or by any regulatory agency to which Governmental Entity is subject or in connection with any civil or administrative proceeding, or (c) to the extent such Information is or becomes publicly known other than through actions, direct or indirect, of the Governmental Entity.

20. Prison Rape Elimination Act. Governmental Entity agrees to assist the Department in complying with standards articulated under 28 C.F.R. 115, entitled the Prison Rape Elimination Act, by submitting to a background check and agreeing not to sexually abuse or harass any offenders. Governmental Entity agrees to undergo training, as the Department sees fit, regarding the Department's zero-tolerance policy for sexual abuse and sexual harassment and Governmental Entity agrees to document and acknowledge in writing that Governmental Entity understands such training. Governmental Entity agrees to inform Department of any knowledge, suspicion, or information regarding the occurrence of sexual abuse or harassment in any facility in which the Governmental Entity is present. Governmental Entity agrees to keep all information about sexual abuse or sexual harassment, other than such information as is required to report the incident, completely confidential. Governmental Entity agrees and understands that a violation of the Prison Rape Elimination Act could result in administrative sanctions, criminal sanctions, or both. Governmental Entity acknowledges that failure to maintain the standards articulated in this paragraph is considered a material breach of this Agreement and is grounds for termination of this Agreement.

21. Shop Right. Governmental Entity agrees that any processes, equipment, proprietary know-how or other proprietary information or matters that are produced or result, directly or indirectly, from or in connection with Governmental Entity's performance of the Services shall be the property of the Department, and Governmental Entity further agrees to execute any and all documents, or take additional actions which may be necessary in the future to give full effect to this provision.

22. Cooperation. Governmental Entity and the Department, its employees, agents, subcontractors, and assigns, agree to cooperate fully in the defense of any litigation brought

against the Department or Governmental Entity relating to this Agreement, and each party shall give the other prompt notice of any claim, demand, suit, or proceeding.

23. Assignment. The parties will not transfer their right, title, or interest hereunder or delegate any of their duties or obligations hereunder without the prior written consent of the other parties.

24. Notices. Any notice under this Agreement shall be deemed duly given if delivered by hand (against receipt) or if sent by registered or certified mail to a party hereto at the address set forth below or to such other address as the parties may designate by notice from time to time in accordance with this Agreement.

It to Governmental Entity: Effingham County Prison
Janet M. Robere, Senior Counselor
321 Hwy 119 South
P.O. Box 235
Springfield, GA 31329

If to Department: Jennifer Ammons
General Counsel
Georgia Department Corrections
State Offices South at Tift College
P.O. Box 1529
Forsyth, Georgia 31029

With Copy to: Dr. Jennifer Irvin
300 Patrol Road
Upshaw – 2nd Floor
Forsyth, GA 31029

25. Headings. The headings in this Agreement have been inserted for convenience only and shall not affect or control the meaning or construction of any of the provisions of this Agreement.

26. Survival. The terms, conditions, representations, obligations, understandings and undertakings herein shall survive any termination of this Agreement.

27. Severability. If any term or provision in this Agreement shall be found to be illegal or unenforceable, then, notwithstanding the offending terms or provisions, this Agreement shall remain in full force in effect and such terms or provisions shall be deemed stricken herefrom.

28. Legislative Modification. Notwithstanding any other provision of this Agreement

to the contrary, in the event that any federal, state, or local law, rule, regulation, or interpretation thereof restricts, prohibits, or in any way materially changes the method or amount of reimbursement or payment for services under this Agreement at any time during the duration of this Agreement, then this Agreement shall, to the extent permitted by the laws of the State of Georgia, be deemed amended by the parties to provide for payment of compensation and other fees in a manner consistent with any such prohibition, restriction, or limitation.

29. Drug-Free Workplace. The Governmental Entity acknowledges that it is fully aware of the contents and requirements of the Drug-Free Workplace Act, O.C.G.A. §50-24-1, *et seq.* (A) The Governmental Entity hereby certifies that he will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this Agreement and any extensions thereof. (B) The Governmental Entity may be suspended, the contract terminated or the Governmental Entity debarred if it is determined that: (1) the Governmental Entity has made false certification hereinabove; or (2) the Governmental Entity has violated such certification by failure to carry out the requirements of the “Drug-Free Workplace Act”.

30. Governing Law. This Agreement is executed in the State of Georgia, and the laws of the State of Georgia shall govern all matters pertaining to the validity, construction, interpretation and effect of this Agreement. Venue shall lie in the Superior Courts of Fulton County for any action arising from Governmental Entity’s provision of Services pursuant to the Agreement.

31. Compliance with Federal and State Work Authorization and Immigration Laws. Governmental Entity certifies its compliance with Illegal Immigration Reform and Enforcement Act of 2011 and specifically those provisions codified at O.C.G.A. §13-10-90, *et seq.* Governmental Entity warrants that it has registered with and uses the federal work authorization program commonly known as “E-Verify.” Governmental Entity further agrees that it will contract for the physical performance of services in satisfaction of this contract only with subcontractors who present an affidavit as required by O.C.G.A. §13-10-91. Governmental Entity warrants that it will include a similar provision in all contracts entered into for the physical performance of services in satisfaction of this contract.

32. Remedies. No remedies or rights herein conferred upon the parties are intended to be exclusive of any remedy or right provided by law, but each shall be cumulative and shall be in addition to every other remedy or right given hereunder or now or hereafter existing at law or in equity (including the right of specific performance).

33. Waiver. The failure of either party to exercise or enforce any right conferred upon it hereunder shall not be deemed to be a waiver of any such right nor operate to bar the exercise or performance thereof at any time or times thereafter; nor shall its waiver of any right hereunder at any given time, including rights to any payment, be deemed a waiver

thereof for any other time.

34. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute one agreement. No party shall be bound by this Agreement until all parties have executed it.

35. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties hereto and replaces, cancels and supersedes any prior agreements and understandings relating to the subject matter hereof; and all prior representations, agreements, and undertakings between the parties hereto with respect to the subject matter hereof are merged herein. This Agreement may be modified only by mutual consent of the parties. Any modification must be in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have caused the authorized representatives of each to execute this Agreement on the day and year first above written.

**GEORGIA DEPARTMENT OF
CORRECTIONS**

GOVERNMENTAL ENTITY

By: _____
Jennifer Ammons
General Counsel

By: _____
Name
Title

Date: _____

Date: _____

Exhibit A
Scope of Services

I. The Governmental Entity Shall:

1. Governmental Entity shall contact the Department to schedule a test date that is mutually agreeable for both Parties. Pearson requires testers to schedule paper tests at least 14 days in advance. Computer tests can be scheduled at any time, including while on site.
2. Governmental Entity will provide a quiet testing space, free of distractions and interruptions, for the Department to administer the GED[®] test at the Testing Location and coordinate the exact time and location with the Governmental Entity at a time that is mutually convenient for both Parties. The Governmental Entity will provide appropriate accommodations for the Examinee(s) with special needs.
3. Provide a list of testers and required demographic information and test content area(s) needed.
3. Provide a quiet, secure location for testing that will accommodate the number of testers and necessary space between testers that will satisfy social distancing requirements as well as a staff member to ensure security during testing.
4. Schedule testing so that there is a Governmental Entity Staff Member available to provide breaks as needed for the Department's Test Administrator.
5. Provide hand sanitizer and other appropriate measures to abide by current health standards and social distancing requirements.
6. Provide approved calculators and scratch paper for use on the test.
7. For paper tests, pay for test booklets for content area tests at a rate of \$46.00 per test content area per tester no later than thirty (30) days after invoice receipt. This is the actual price of the test from Pearson.
8. For computer tests, pay for content area tests no later than thirty (30) days after invoice receipt. For the first time an individual takes a test, the cost will be \$46 per content area. If the individual does not pass, the retake will be at a rate of \$26 per content area. The prices will continue in that

same pattern for subsequent retakes (\$46, \$26, \$46, \$26, etc.). These are the actual prices of the test from Pearson.

9. Ensure that all testers have photo identification to present on the day of testing as the GDC test administrator will not test without identification.

Department will be responsible for the following:

1. For paper testing:

- a. Order tests on behalf of Governmental Entity based on provided list of testers and test content area(s) needed. Pearson requires test administrators to schedule paper tests at least 14 days in advance.
- b. Pick up and transport test booklets and other materials from official Department delivery site to Government Entity.
- c. Provide testing services according to Pearson Vue guidelines.
- d. Collect and ship test booklets and other materials to Pearson Vue.
- e. Retrieve scores through GED Manager and report scores to Governmental Entity, as necessary.
- f. Provide invoice from Pearson Vue for tests ordered for reimbursement to the Department.

2. For computer testing:

- a. Order tests on behalf of Governmental Entity based on provided list of testers and test content area(s) needed. Computer tests can be scheduled at any time, including while on site.
- b. Transport test administrator laptop, testing laptops, and any required cords to the location of the Governmental Entity on the day of testing.
- c. Provide testing services according to Pearson Vue guidelines.
- d. Retrieve scores through GED Manager and report scores to Governmental Entity, as necessary.
- e. Provide invoice from Pearson Vue for tests ordered for reimbursement to the Department.

Exhibit “B”
Compensation Schedule

For Paper Testing, the Governmental Entity agrees to reimburse the Department for the cost of paper GED testing at the rate of Forty Six Dollars (\$46.00) per content section. The Governmental Entity will reimburse the Department within thirty (30) days of receipt of the invoice.

Paper tests will be purchased per the roster submitted to the Department by the Governmental Entity as needed. Testing dates will be scheduled as needed at the convenience of both Parties and at no additional charge to the Governmental Entity.

For Computer Testing, the Governmental Entity agrees to reimburse the Department for the cost of computer GED testing at the rate of Forty Six Dollars (\$46.00) for the first time an individual takes a test. If the individual does not pass, the retake will be at a rate of \$26 per content area. The reimbursable amount will continue in that same pattern for subsequent retakes (\$46, \$26, \$46, \$26, etc.). The Governmental Entity will reimburse the Department within thirty (30) days of receipt of the invoice.