

TWELFTH AMENDATORY AGREEMENT

THIS TWELFTH AMENDATORY AGREEMENT is by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City") and **KEEFE COMMISSARY NETWORK, L.L.C.**, a Foreign Limited Liability Company doing business in the State of Colorado with a principal place of business address of 10880 Lin Page Place, St Louis, MO 63132 (the "Contractor"). The City and Contractor are collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, the Parties entered into an Agreement originally dated October 24, 2006 regarding the provision of comprehensive canteen/commissary services for use by the inmate population at the Denver County Jail and the Pre-Arrest Detention Facility;

WHEREAS, the Parties have since revised certain terms and conditions in the Agreement via various amendments on May 5, 2009, March 2, 2010, January 26, 2011, March 20, 2012, October 3, 2012, September 6, 2013, January 23, 2015, November 27, 2015, December 19, 2016, January 4, 2019 and October 7, 2020 (collectively, the "Agreement");

WHEREAS, the Parties now desire to further amend and revise the terms and conditions of the Agreement as they previously existed;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and obligations herein set forth, the Parties agree as follows:

1. Article 3C of the Agreement entitled "**Utilization of Illegal Aliens Under Agreement Prohibited**" is hereby deleted in its entirety and replaced with:

**"C. NO EMPLOYMENT OF A WORKER WITHOUT
AUTHORIZATION TO PERFORM WORK UNDER THE
AGREEMENT**

Keefe Commissary Network, L.L.C.
Jaggaer CCN: SHERF-202160564

a. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance").

b. The Contractor certifies that:

(1) At the time of its execution of this Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement, nor will it knowingly employ or contract with a worker without authorization to perform work under this Agreement in the future.

(2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., and confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(3) It will not enter into a contract with a subconsultant or subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.

(4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subcontractor and the City within three (3) days. The Contractor shall also terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the worker without authorization, unless during the three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with a worker without authorization.

(6) It will comply with a reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.

c. The Contractor is liable for any violations as provided in the Certification Ordinance. If Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Contractor from submitting bids or proposals for future contracts with the City."

2. Article 4(O) of the Agreement entitled "**Technical Specifications of Contractor's Operations**" is hereby amended to read as follows:

"O. Technical Specifications of Contractor's Operations:

(1) Provisions of City Request for Proposal (RFP) "Commissary SVC 0560A", upon which this Agreement is based, are referenced in the Contractor's Proposal, with immaterial portions redacted, marked as Exhibit A, attached hereto and incorporated herein by reference. This typed Agreement document and the said Proposal exhibit, together with the RFP Addendum #1 (questions and answers), which form a part of Exhibit A, and together with Exhibit A2, Agreement for Release Pay Prepaid Debit Card Release, Exhibit B, the Product List, Exhibit C, the Bond, Exhibit D, the Certification Affidavit, and Exhibit E, 20% Commission Products, described above, form this Agreement."

3. Article 6 of the Agreement entitled "**TERM OF THE AGREEMENT**" is hereby amended to read as follows:

"6. **TERM OF AGREEMENT:** The term of the Agreement shall commence on October 1, 2006 and terminate on December 31, 2022."

4. Article 8 of the Agreement entitled "**CONSIDERATION; PAYMENT**" is hereby amended to read as follows:

"**8. CONSIDERATION; PAYMENT:** It is understood and agreed that this Agreement is structured to provide a net percentage revenue payable by the Contractor to the Trust in the form of a percentage of Net Receipts from the sale of Products, and that no tax monies or other public monies of the City are appropriated or made available for payment to the Contractor for any purpose, direct or contingent, under this Agreement.

a. Estimated Contract Amount:

(1) Notwithstanding any other provision of the Agreement, the estimated payment obligation to the Trust under this Agreement is **TEN MILLION, SIX-HUNDRED EIGHTY-NINE THOUSAND, NINE HUNDRED AND SIXTY DOLLARS AND NO CENTS (\$10,689,960.00)** (the "Estimated Contract Amount"). The Parties recognize that this amount is merely an opinion of possible total payments to the Trust for the services provided under this Agreement and may be exceeded, and that the Estimated Contract Amount is not an estimate in the sense of being a final or maximum amount of payment to be made to the Trust under this Agreement.

5. Article 12 of the Agreement entitled "**EXAMINATION OF RECORDS**" is hereby amended to read as follows:

EXAMINATION OF RECORDS/AUDIT REQUIREMENTS:

A. The Contractor shall maintain true and complete records of all business transactions under this Agreement, as well as records of the documentation supporting the use of all funds Contractor receives from the City or the Trust under this Agreement for the latter of three (3) years after final payment under this Agreement or the expiration of the applicable statute of limitations. Any authorized agent of the City or the Trust, including the City Auditor and/or his or her representative, has the right to access, and the right to examine, copy and retain copies, at the City's election in paper or electronic form, any pertinent books, documents, papers and records of the Contractor, involving transactions related to this Agreement, including but not limited to, records of Gross Receipts, Net Receipts, and

Commission. The Contractor shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under this Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require the Contractor to make disclosures in violation of state or federal privacy laws. The Contractor shall at all times comply with D.R.M.C. 20-276."

6. Article 18 of the Agreement entitled "**NO DISCRIMINATION IN EMPLOYMENT**" is hereby deleted in its entirety and replaced with:

"18. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under the Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts."

7. Article 20 of the Agreement entitled "**COLORADO GOVERNMENTAL IMMUNITY ACT**" is hereby amended to read as follows:

"20. COLORADO GOVERNMENTAL IMMUNITY ACT: In relation to this Agreement, the City is relying upon and has not waived the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, C.R.S. § 24-10-101, et seq."

8. Article 31 of the Agreement entitled "**CONTRACT DOCUMENTS; ORDER OF PRECEDENCE**" is hereby amended to read as follows:

"CONTRACT DOCUMENTS; ORDER OF PRECEDENCE: This Agreement consists of Articles 1 through 35, which precede the signature

page and the following attachments which are incorporated herein and made a part hereof by reference:

Exhibit A – Contractor Proposal document
Exhibit A-2 – Agreement for Release Pay Prepaid Debit Card Release
Exhibit B – Product List
Exhibit C – Payment and Performance Bonds
Exhibit D – Certification Affidavit
Exhibit E – 20% Commission Products

In the event of an irreconcilable conflict between a provision contained in Articles 1 through 35, and any of the listed attachments or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

- Articles 1 through 35 (Agreement)
- Exhibit A
- Exhibit A-2
- Exhibit C
- Exhibit B
- Exhibit D
- Exhibit E"

9. Except as amended here, the Agreement is affirmed and ratified in each and every particular.

10. This Twelfth Amendatory Agreement is not effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

[SIGNATURE PAGES FOLLOW]

Contract Control Number: SHERF-202160564-12 / Alf: SHERF-RC63008-12
Contractor Name: KEEFE COMMISSARY NETWORK LLC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at
Denver, Colorado as of:

SEAL **CITY AND COUNTY OF DENVER:**

ATTEST: By: _____

APPROVED AS TO FORM: **REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By: _____ By: _____
By: _____

Contract Control Number:
Contractor Name:

SHERF-202160564-12 / Alf: SHERF-RC63008-12
KEEFE COMMISSARY NETWORK LLC

By:  31EE64A7054E4FB...

Name: John Puricelli
(please print)

Title: Executive Vice President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

EXHIBIT A-2
Agreement for Release Pay™ Prepaid Debit Card Release

THIS AGREEMENT FOR DISTRIBUTION OF PREPAID DEBIT CARDS (“Agreement”) is entered into as of the _____ day of November 2021 (“Effective Date”) by and between Keefe Commissary Network, L.L.C. d/b/a Access Corrections (“KCN”), located at 10880 Linpage Place, St. Louis Missouri 63132 and Denver County Sheriffs Dept. (“Client”), located at 10500 Smith Road, Denver, CO. 80239.

WHEREAS, KCN, a solution provider for the correctional market, coordinates inmate trust fund release services for correctional facilities via a third party’s provision of prepaid debit cards; and

WHEREAS, Client desires to coordinate **Release Pay** inmate trust fund release services at the above mentioned correctional facility (the “Services”) as defined further hereunder; and

WHEREAS, Both parties, intending to be legally bound, hereby agree as follows:

1. **Term.** This Agreement shall be effective as of the Effective Date and shall continue for an initial term of one (1) year. Thereafter, this Agreement shall automatically renew for successive terms of one (1) year unless either party provides the other party with written notice of its desire not to renew at least thirty (30) days prior to a scheduled renewal.
2. **Services.** KCN shall provide technical support and coordination for the following release Services for processing inmate trust fund balances to Client inmates at time of release from the Client:

Prepaid Debit Cards (“Cards”): described as, a debit card which may be used for ATM withdraws and/or pin-based and signature purchases after inmate activation. The Cards will be issued by and the funds will be held by Cache Valley Bank in Logan, Utah. All transactions are processed by a third-party processor - Rapid Financial Solutions.

* Additional Release Services may be made available to the Client throughout the term of this Agreement and shall become part of this Agreement with the Client’s acceptance. No Release Services shall be implemented without Client approval. Another Card Brand, Issuing Bank or Program Manager may be substituted during the term of this agreement at KCN’s discretion and shall not constitute an “Additional Release Service.” The Client will be notified in writing of any such change.

3. **Maintenance of Designated Account.** Client agrees to maintain an account at the following bank (“Designated Account”) from which funds will be withdrawn by KCN and sent to Cache Valley Bank, which issues the Cards:

Bank Name: _____

Bank Address: _____

Routing Number: _____

Account Number: _____

Bank Contact Name and Title: _____

Bank Contact Phone Number: _____

4. **Authorization to Withdraw Funds from Designated Account.** Client hereby authorizes KCN to withdraw funds from the Designated Account without signature or notice to effect all deductions and other transactions due KCN provided for in this Agreement. KCN shall notify Client if at any time there are insufficient funds in the Designated Account to cover any amount that is due and owing to KCN. Client shall promptly pay such amount to KCN. KCN will withdraw funds from the Designated Account every business day to cover the funds necessary to issue the Cards.

This authorization is to remain in full force and effect until KCN has received written notification from Client of its termination in such time and in such manner as to afford KCN and the Bank named above reasonable opportunity to act on it. Client shall give KCN no less than three banking business days

notice if the Designated Account is to be changed so as to allow enough time for KCN to make the necessary system modifications.

5. **Responsibilities of the Client.** All responsibilities of the Client are outlined in the attached "Security Requirements for the Storage of Prepaid Cards", "Exhibit A" of this Agreement. KCN reserves the right to modify "Security Requirements for the Storage of Prepaid Cards", "Exhibit A" of this Agreement. KCN shall notify the Client of any such change in writing.
6. **Representation and Warranty of Client.** Client represents and warrants that it is lawful in its respective jurisdiction of Denver County, Colorado to provide the Services as detailed in this Agreement, including, but not limited to, charging the inmates a fee for the Services.
7. **Fees and Charges.** KCN shall charge a fee for its role in setting up the bank account with the bank issuing the Cards and for coordinating third party processing services. "Coordination Fees" are in accordance with the fee structure located in "Exhibit C". All fees shall be assessed to the card holder/inmate.
8. **Taxes.** Each party shall be responsible for calculating, collecting and remitting their own Federal, state and/or local taxes, associated with the release services.
***Taxes should not be levied on the issuance of a Card unless Client's laws dictate such.**
9. **Equipment.** Upon expiration or termination of this Agreement, Client agrees that all equipment and materials remain the property of KCN and upon expiration or termination of this Agreement KCN agrees to promptly remove all equipment and materials from the above mentioned Client. Client shall be responsible for any unusual wear and tear, lost or stolen equipment as well as any lost, stolen or improperly funded Cards during the term of this Agreement as per "Exhibit A" of this Agreement.
10. **Confidentiality.** KCN agrees to keep all information about inmates confidential and to make no disclosure thereof to any third party, except as may otherwise be required by law. KCN agrees to give Client prompt notice of any such disclosure.
11. **Exclusivity.** Client acknowledges that based on this Agreement, KCN has the sole and exclusive right and authority to provide the services contemplated by this Agreement for all inmate accounts under the Client's control and Client shall not, throughout the term of the Agreement, engage the services of any other company to provide such services.
12. **Compliance.** KCN and the Client shall comply with all laws, orders, rules and regulations applicable to it that are associated with the performance of its duties and obligations under this Agreement and as stated in "Exhibit A and Exhibit B" of this Agreement.
13. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Missouri.
14. **Fiduciary Responsibility.** Client agrees that it shall, to the full extent allowed by law, assume all liability for any Client related job functions that lead to discrepancies/deficiencies associated with any funding, Card loss, improper storage, etc. expressly attributed to the loading, inventorying and distribution of the Cards to the Client inmates.
15. **Indemnification.** Each party shall indemnify and hold the officers, directors, agents, employees, representatives, subsidiaries, parent company, affiliates, and customers harmless for any losses, claims, damages, awards, penalties, or injuries incurred by any third party, including reasonable attorney's fees, which arise from any alleged breach of such indemnifying party's representations and warranties made under this Agreement, provided that the indemnifying party is promptly notified of any such claims. The indemnifying party shall have the sole right to defend such claims at its own expense. The other party shall provide, at the indemnifying party's expense, such assistance in investigating and defending such claims as the indemnifying party may reasonably request. This indemnity shall survive the termination of this Agreement.
16. **Force Majeure.** Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.
17. **Termination.** In the event that either party believes that the other party has materially breached any obligations under this Agreement, or if either party believes that the other party has exceeded the scope of the Agreement, such party shall so notify the breaching party in writing. The breaching party shall have 30 days from the receipt of notice to cure the alleged breach and to notify the non-breaching party

in writing that cure has been effected. If the breach is not cured within the 30 days, the non-breaching party shall have the right to terminate the Agreement without further notice. KCN reserves the right to terminate this Agreement if the Client, or its representatives' actions, breach the Clients responsibilities listed in this Agreement including all Attachments and Exhibits.

18. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written.
19. **Assignment.** This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors of interest, except that Client may not assign this Agreement to any person or entity without the written consent of KCN.
20. **Notices.** All notices given pursuant to this Agreement shall be in writing and may be hand delivered, or shall be deemed received within 10 days after mailing if sent by registered or certified mail, return receipt requested. If any notice is sent by facsimile or email, confirmation copies must be sent by mail or hand delivery to the addresses listed above.

IN WITNESS WHEREOF, the parties have executed this Agreement by their respective, duly authorized representatives as of the date first above written.

Keefe Commissary Network, L.L.C.

Client

SIGNATURE: _____

SIGNATURE: _____

PRINT NAME: _____

PRINT NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

Exhibit A

Security Requirements for the Storage of Prepaid Cards

The security requirements in this document are based on policies and guidelines developed by the Payment Networks and industry best practices. These requirements must be implemented at all locations that store and distribute instant-issue card products.

Card Ordering

Card orders will be shipped to the designated locations by Rapid or its assignees by bonded and approved carrier. Card orders must be signed for upon arrival. All cards must be placed at the time of receipt into inventory in a secured storage area. An employee designated by management should be appointed to ensure the physical and procedural security policies are implemented.

Card Inventory

Physical security of the cards in inventory must be maintained at all times. Cards must be stored in a controlled environment, such as a safe or locked storage device, with access limited to employees who have successfully passed background screening checks.

An inventory log must account for the number of cards received, cards used, cards spoiled (cards that cannot be used due to damage, tampering or expiration) and remaining cards that should balance to the number of cards on hand at any time. An explanation of spoilage should be included on the log. Any inventory discrepancy must be reported to Rapid as soon as detected.

Card Destruction

Rapid may request return of unused cards in inventory for destruction for any of the reasons listed below.

1. Cards are compromised or tampered with;
2. Card stock expired;
3. Cards are damaged or defective;
4. Program is terminated.

Cards to be returned should be securely packaged. A copy of the inventory log should be included in the shipment. A second copy of the inventory log should be transmitted to Rapid electronically.

Alternatively, the location may destroy any defective or damaged card and certify its destruction by maintaining a detailed inventory log, and destroying the cards using a cross cut shredder that creates pieces no larger than ¼ " by ½" in size. A certified report of destruction outlined in Exhibit B, attached hereto and incorporated herein by this reference must be submitted to Rapid on a monthly cycle even if no cards were destroyed in that period.

The remainder of this page intentionally left blank.

Exhibit C**Inmate Release Card Program Fees**

Cardholder Fees Associated with the Inmate Release Program

	Charge
Card Activation Fee	FREE
Support Calls Fee	FREE
PIN Change Fee	FREE
Point of Sale (POS) Transactions (PIN & Signature)	FREE
Cash Back Option with POS purchase	FREE
POS Declines	FREE
Card to Bank ACH Transfer****	FREE
Cash Out at any Principal MasterCard Member Institution	FREE
Monthly Maintenance Fee*	\$3.95
ATM Account Inquiry Fee	\$1.50
Inactivity Fee**	\$3.95
Domestic ATM Fees***	\$2.95
ATM Decline for Non-Sufficient Funds Fee	\$2.95
International ATM Fees***	\$3.95
ATM Decline International Fee	\$3.95
Replacement of lost or stolen card	FREE
Account Closure Fee/Request for Balance by Check	FREE

* After 15 days of the card being validated (used for a transaction) the card starts incurring a monthly maintenance fee to cover the cost of the FDIC insured account. Once the card has been validated the inactivity fees no longer apply. Both fees will never be charged together.

** If after 100 days the card has not been validated (used for a transaction) the card will be charged an inactivity fee of \$3.95 per month. Until the card has been validated (used for a transaction).

***Fees may also be imposed by the local ATM provider in addition to card fees. For a listing of surcharge-free ATM's, visit <http://www.moneypass.com/>.

****Returned or rejected ACH transfers for invalid banking information are subject to a \$9.95 returned processing fee.

*****Cardholder fees are subject to change. Thirty (30) day prior written notice of a change in fees will be given. The changes will be posted on the Card website at www.accessfreedomcard.com. You will be deemed to have proper notice thirty days (30) after the amendments are posted.

Customer Service / Servicio Al Clientes:
Toll Free from U.S.A. – (888) 609-0008
www.accessfreedomcard.com