CONTRACT AMENDMENT
CONTRACT 12-041-MWP

THIS CONTRACT AMENDMENT (**Amendment #5**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 5 S. Last Chance Gulch, Helena, Montana 59620-1301 and **Kone, Inc.** (CONTRACTOR) 3110 East Lyndale Ave, Helena, MT 59601 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of January 20, 2012 and Section 14 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on January 31, 2017 and Section 5 provides that the parties may extend the expiration date of the Contract.

NOW THEREFORE, the parties agree to amend the Contract as follows (**new language underlined, old language interlined**):

TIME OF PERFORMANCE

This Contract shall take effect upon final contract signature. This Contract shall expire on **January 31, ~~2017~~ 2018** unless either party provides a written notice of cancelation at least 30 days prior. In the event neither party provides a written notice of cancelation 30 days prior to January 31, 2016, this Contract shall continue on a month-to-month basis until such time as the parties mutually agree to an annual renewal of the contract or either party provides a written 30 day notice of cancellation.

In no event may this Contract continue or be renewed for a period exceeding a total of **seven (7) years.**

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

DEPARTMENT

Joan Daly Shinness

Joan Daly, Warden
Montana Women's Prison

12/8/16
Date

CONTRACTOR

Jeff Blum, Sr. Vice President
Kone, Inc.

12/15/16
Date

Reviewed for Legal Content by: Colleen Ambrose
Legal Counsel
Department of Corrections

12-6-16
Date

CONTRACT AMENDMENT
CONTRACT 12-041-MWP

THIS CONTRACT AMENDMENT (**Amendment #4**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 5 S. Last Chance Gulch, Helena, Montana 59620-1301 and **Kone, Inc.** (CONTRACTOR) 3110 East Lyndale Ave, Helena, MT 59601 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of January 20, 2012 and Section 14 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on January 31, 2016 and Section 5 provides that the parties may extend the expiration date of the Contract.

NOW THEREFORE, the parties agree to amend the Contract as follows (**new language underlined, old language interlined**):

TIME OF PERFORMANCE

This Contract shall take effect upon final contract signature. This Contract shall expire on **January 31, ~~2016~~ 2017**, unless either party provides a written notice of cancelation at least 30 days prior. In the event neither party provides a written notice of cancelation 30 days prior to January 31, 2016, this Contract shall continue on a month-to-month basis until such time as the parties mutually agree to an annual renewal of the contract or either party provides a written 30 day notice of cancellation.

In no event may this Contract continue or be renewed for a period exceeding a total of **seven (7) years.**

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

DEPARTMENT

Joan Daly, Warden
Montana Women's Prison

1/4/16
Date

CONTRACTOR

Jeff Blum, Sr. Vice President
Kone, Inc.

1/19/16
Date

Reviewed for Legal Content by:

Legal Counsel
Department of Corrections

12-30-15
Date

CONTRACT AMENDMENT
CONTRACT 12-041-MWP

THIS CONTRACT AMENDMENT (**Amendment #3**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 5 S. Last Chance Gulch, Helena, Montana 59620-1301 and **Kone, Inc.** (CONTRACTOR) 3110 East Lyndale Ave, Helena, MT 59601 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of January 20, 2012 and Section 14 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on January 31, 2015 and Section 5 provides that the parties may extend the expiration date of the Contract.

NOW THEREFORE, the parties agree to amend the Contract as follows (**new language underlined, old language interlined**):

TIME OF PERFORMANCE

~~This Contract shall take effect on February 1, 2012 and shall terminate on January 31, 2014 2015, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of seven (7) years.~~

This Contract shall take effect upon final contract signature. This Contract shall expire on **January 31, 2016**, unless either party provides a written notice of cancelation at least 30 days prior. In the event neither party provides a written notice of cancelation 30 days prior to January 31, 2016, this Contract shall continue on a month-to-month basis until such time as the parties mutually agree to an annual renewal of the contract or either party provides a written 30 day notice of cancellation.

In no event may this Contract continue or be renewed for a period exceeding a total of **seven (7) years.**

25. CONTRACTOR REGISTRATION

Construction contracts greater than $2,500.00 require Contractors to be registered with the Department of Labor & Industry under 39-9-201 and 39-9-204 MCA **prior** to Contract execution. A copy of the registration certificate must be provided to DEPARTMENT. **CONTRACTOR'S registration number is #1454 - expiration date of ~~05/08/2014~~ 05/08/2016.**

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

DEPARTMENT

Joan Daly, Warden
Montana Women's Prison

12/15/14
Date

CONTRACTOR

Jeff Blum, Sr. Vice President
Kone, Inc.

1/20/15
Date

Reviewed for Legal Content by:

Legal Counsel
Department of Corrections

12-5-14
Date

CONTRACT AMENDMENT
CONTRACT 12-041-MWP

THIS CONTRACT AMENDMENT (**Amendment #2**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 5 S. Last Chance Gulch, Helena, Montana 59620-1301 and **Kone, Inc.** (CONTRACTOR) 1 Bompart Blvd. Clancy, MT 59634, and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of January 20, 2012 and Section 14 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on January 31, 2014 and Section 5 provides that the parties may extend the expiration date of the Contract.

NOW THEREFORE, the parties agree to amend the Contract as follows (**new language underlined, old language interlined**):

TIME OF PERFORMANCE

This Contract shall take effect on February 1, 2012 and shall terminate on January 31, ~~2014~~ 2015, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of seven (7) years.

25. CONTRACTOR REGISTRATION

Construction contracts greater than $2,500.00 require Contractors to be registered with the Department of Labor & Industry under 39-9-201 and 39-9-204 MCA **prior** to Contract execution. A copy of the registration certificate must be provided to DEPARTMENT. **CONTRACTOR'S registration number is #1454 - expiration date of ~~5/08/13~~ 05/08/2014.**

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

DEPARTMENT

Joan Daly, Warden
Montana Women's Prison

1/23/14
Date

CONTRACTOR

Jeff Blum, Sr. Vice President
Kone, Inc.

2/13/14
Date

Reviewed for Legal Content by:

Legal Counsel
Department of Corrections

1-9-14
Date

CONTRACT AMENDMENT
CONTRACT 12-041-MWP

THIS CONTRACT AMENDMENT (**Amendment #1**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 5 S. Last Chance Gulch, Helena, Montana 59620-1301 and **Kone, Inc.** (CONTRACTOR) 1 Bompart Blvd. Clancy, MT 59634 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of January 20, 2012 and Section 14 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on January 31, 2013 and Section 5 provides that the parties may extend the expiration date of the Contract.

NOW THEREFORE, the parties agree to amend the Contract as follows (**new language underlined, old language interlined**):

TIME OF PERFORMANCE

This Contract shall take effect on February 1, 2012 and shall terminate on January 31, ~~2013~~ 2014, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of ~~six (6) additional~~ seven (7) years.

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

DEPARTMENT

Jo Acton, Warden
Montana Women's Prison

3-11-13
Date

CONTRACTOR

Jeff Blum, Sr. Vice President
Kone, Inc.

4/1/13
Date

Reviewed for Legal Content by:

Legal Counsel
Department of Corrections

3/6/2013
Date

1. PARTIES

The Montana Department of Corrections (DEPARTMENT) and KONE, Inc. (**CONTRACTOR**) enter into this Contract **(12-041-MWP)** for services in accordance with the terms and conditions of limited solicitation #12-LS03-MWP. The party's names, addresses, telephone numbers, are as follows:

Montana Department of Corrections
Montana Women's Prison (MWP)
5 S. Last Chance Gulch
PO Box 201301
Helena, Montana 59620 -1301
(406) 444-3930

KONE, Inc.
1 Bompart Blvd.
Clancy, MT 59634

406-449-1399

DEPARTMENT AND CONTRACTOR, AS PARTIES TO THIS CONTRACT AND FOR THE CONSIDERATION SET FORTH BELOW, AGREE AS FOLLOWS:

2. DUTIES/RESPONSIBILITIES OF CONTRACTOR

CONTRACTOR agrees to provide necessary services to maintain the ThyssenKrupp passenger elevator located at MWP.

2.1 Level of Maintenance

A high level of maintenance is mandatory. With prior approval by DEPARTMENT, CONTRACTOR shall be allowed to use any acceptable materials, equipment, methods, etc., to furnish this level of maintenance, provided strict adherence to federal, state and local codes is maintained and final work approved by the State of Montana.

2.2 Extent of Service (parts components repair, replacement, testing & alignment)

Furnish all materials and labor necessary to maintain the operation of one (1) electric ThyssenKrupp passenger elevator Continental 45 Unit, Id # EN-0469, MT#1485-1 (capacity 4500 lbs). Maintenance shall include lubrication and adjustment to insure smooth and efficient operation of, but is not limited to machines, motors, generators, controllers, control and landing positioning systems, selectors, worms, gears, thrusts, drives, governors, sheaves, and ropes, bearings, power units, pumps, valves, jacks, all brake components, windings, commutators, rotating elements, contacts, coil resistances, relays, magnet frames, leveling devices, load-weighers, cams, car and hoistway door (or gate) hangers, tracks, guides, doors or operating devices, interlocks and contacts, doors or gates (except finish), push buttons, annunciators, cables including hoist and governor cables, governor equipment, electrical conductors, car guides and shoes (or guide rollers), safety devices (mechanisms) and indicator lights, signal and lamp fixtures, fans, gates, rail alignment, hoistway doors, door frames, platforms, and counterweights, sills, hoist way gates, power feeders and switches to insure maximum performance and safe operation.

Cleaning and refinishing of the car, hoistway doors, frames and sills, and the replacement of car lamps or car flooring is not the responsibility of CONTRACTOR.

2.3 Safety testing

Test equipment as outlined in federal, state, local safety codes to insure inspections will be passed.

- Perform governor, safety and load tests
- Perform pressure and equipment test
- Correct deficiencies and meet compliance requirements
- Adhere to new published safety rules/standards

Perform all required safety tests as indicated by the State of Montana, Elevator Safety Program. Completions of the required tests are to include prompt submission of test results to the State of Montana Elevator Program.

2.4 Rules

Rules make reference to the "American Society of Mechanical Engineers, ASME, A17.3–2002" and any supplements codes thereto, which have been adopted by the State of Montana by applying MCA title 50, chapter 60, part 7, ARM 24.301.602.

Vendors may request a copy from the Department of Labor and Industry, Building Codes Division, 301 South Park, Helena, MT 59620 or by phoning 406-841-2040.

2.5 Skilled Mechanics

It is the responsibility of the CONTRACTOR to provide skilled mechanics, directly employed and supervised by it, to perform all routine preventive maintenance as well as any emergency breakdown service.

All skilled mechanics employed for this contract must be thoroughly trained in the mechanical and electrical operation of elevator equipment. Particular effort must be made to familiarize these mechanics with the specific equipment needed for this contract.

2.6 Number of Hours/Routine Scheduled Maintenance

No less than one-half (1/2) hour per quarter [every 3 months (January, April, July, October)], must be spent in routine scheduled maintenance for cleaning, adjusting and lubricating. Repair, replacement and callback time are separate from scheduled maintenance time requirements.

A. Contractor shall not charge for service requests for minor repairs/adjustments or emergency entrapments.

B. After hour service requests, initiated by the CONTRACTOR, must be approved in advance by MWP, including all additional cost not covered under contract.

2.7 Maintenance Requirements

A. The one (1) electric ThyssenKrupp passenger elevator Continental 45 Unit, Id # EN-0469, Model EP12530, MT#1485-1 must be serviced at least once quarterly. This will be on a date mutually agreed upon between the CONTRACTOR and MWP.

B. With proper tools and equipment, thoroughly check and make all necessary repairs and adjustments to each elevator to insure uninterrupted, safe, and comfortable service.

C. In accordance with manufacturer's instructions, complete scheduled lubrication.

D. Upon disclosure of major wear on any part, CONTRACTOR will notify DEPARTMENT and down time shall be scheduled during regular working hours for replacement to be made.

E. Keep machinery and equipment thoroughly cleaned and painted as necessary to prevent rust and/or corrosion (The interior of the car shall be cleaned and maintained by DEPARTMENT).

F. Not less than once a year, preferably in **January**, the CONTRACTOR must make a thorough no-load safety test in the presence of a representative of DEPARTMENT, reporting in detail the work performed and results of the test and submit the test results to the State of Montana Elevator Program.

G. All routine scheduled maintenance must be performed Monday through Friday between 8:00 am and 4:00 pm. (Except on holidays)

2.8 Check Charts (logs)

The CONTRACTOR will be required to maintain a check chart for the elevator, listing all the parts requiring service and the intervals at which they are to be serviced.

This chart will be kept in a mutually agreed upon location supplied by DEPARTMENT and shall be turned over to DEPARTMENT upon completion of this contract. Every service call must be recorded on the appropriate chart, including routine maintenance and emergency repair calls, listing services performed and parts or equipment replaced.

2.9 Emergency Callbacks

Upon failure of the elevator to properly operate between service calls, the CONTRACTOR must provide emergency callback service and restore operation. All expenses for this emergency service must be included in bid prices. DEPARTMENT shall assign one person responsible to contact the CONTRACTOR for all emergency callbacks. The mechanic must notify this person upon completion of emergency work.

The mechanics assigned to work on the elevator must be capable of responding to emergency callbacks within three (3) hours (24 hours a day Monday through Friday). On Saturday and Sunday, response time shall be extended to four (4) hours.

2.9 Claims

It is expressly understood and agreed that no claim for extra work, labor or materials, not specifically herein provided, will be allowed by DEPARTMENT. Contractor will not do any work or furnish any materials not covered by this contract unless such work is ordered in writing by DEPARTMENT; and in no event shall CONTRACTORs incur any liability by reason of verbal directions or instruction by DEPARTMENT or its authorized agent.

2.10 Inspection

Contractor must maintain access to all phases of contract permitting inspection by DEPARTMENT or its representative. DEPARTMENT reserves the right to make such inspections and tests as and when deemed necessary to ascertain that the requirements of this agreement are being fulfilled.

2.11 Performance Requirements

Contractor must respond within 24 hours after notice of observed defects has been given and shall proceed to immediately remedy these defects at CONTRACTOR expense.

If a CONTRACTOR's services are not in conformance to the requirements of this contract, DEPARTMENT has the right to require immediate re-performance. All work rejected as unsatisfactory shall be subject to final inspection and acceptance.

Nothing herein stated shall obligate the CONTRACTOR to remedy defects caused by the owner's abuse of that work.

2.12 Supplies and Replacement Parts

If replacement parts/devices are not identical to original equipment or to the equipment manufacturer's recommendation, prior written approval from DEPARTMENT shall be obtained. Approval requests shall be made in writing, include the reasons for the proposed substitution, and provide a detailed technical description of the part or device.

A. Normal supplies including lubricant and devices required for routine use shall be readily available.

2.13 Nuisance Calls

Nuisance calls are considered a part of the regular contract and no extra charges will be paid by DEPARTMENT relating to such calls.

3. COMPENSATION/BILLING

DEPARTMENT shall compensate CONTRACTOR for successful delivery of the services (or goods) provided pursuant to Section 2 in the following manner:

A. DEPARTMENT shall pay CONTRACTOR $382.50 per quarter (January, April, July, October), not to exceed one thousand five hundred thirty and 00/100 Dollars ($1,530.00) per fiscal year, for the services described in Section 2 above.

B. This rate is inclusive of all travel and per diem. DEPARTMENT will not compensate CONTRACTOR for travel or travel time, lodging, meals, supplies, or any other expense incurred by CONTRACTOR while performing services identified within this Contract.

C. DEPARTMENT agrees to pay CONTRACTOR within 30 business days following receipt of a correct invoice.

D. DEPARTMENT may withhold payments to CONTRACTOR if CONTRACTOR has not performed in accordance with the terms of this Contract.

E. The Contract number must be referenced on all invoices and correspondence pertaining to this Contract.

4. AGENCY ASSISTANCE

To the extent possible, CONTRACTOR shall use its' own equipment in providing the goods/services set forth in Section 2. However, the parties recognize that services provided to DEPARTMENT may occur within the confines of a secure correctional facility necessitating the use of DEPARTMENT facilities and equipment including, but not limited to, access to inmate records, work space within a correctional facility, and phone service (e.g., Montana State Prison does not allow cellular or digital phones within the facility).

5. TIME OF PERFORMANCE

This Contract shall take effect on February 1, 2012 and shall terminate on January 31, 2013, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of six (6) additional years.

Upon expiration of this Contract, and in the absence of a new written agreement, the terms listed herein shall continue to govern the agreement between the parties until such time as a new Contract is signed.

6. LIAISON AND NOTICE

A. Bob Paul, (406-247-5121) 701 S. 27th St., Billings, MT 59101 or successor serves as DEPARTMENT'S liaison.

B. Blain Bermingham, (406-449-1399) 1 Bompart Blvd., Clancy, MT 59634 or successor serves as CONTRACTOR'S liaison.

C. All notices and invoices required in this Contract shall be in writing, properly addressed to the liaison in (A) and (B) above, mailed first-class, postage prepaid. All notices sent via U.S. Postal Service are deemed effective on the date of postmark. Notices and invoices mailed through another carrier (e.g., UPS or FedEx) are effective upon receipt.

7. OWNERSHIP AND PUBLICATION OF MATERIALS

All materials CONTRACTOR develops or utilizes (i.e., reports, spreadsheets, etc.) in performing the services set forth in Section 2 above shall be the sole property of DEPARTMENT.

8. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Neither CONTRACTOR nor its employees are employees of the State. In accordance with sections 39-71-120, 39-71-401, and 39-71-405, MCA, Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana. CONTRACTOR shall provide proof of compliance in the form of workers' compensation insurance, an independent contractor exemption, or documentation of corporate officer status and maintain such insurance, exemption, or corporate officer status for the duration of the contract. CONTRACTOR shall submit a copy of all renewals of expired insurance and exemptions to: Department of Corrections, Fiscal Bureau, Attn: Contracts Manager, PO Box 201301, Helena, MT 59620-1301.

9. HOLD HARMLESS AND INDEMNIFICATION

A. CONTRACTOR agrees that he is financially responsible (liable) for any audit exceptions or other financial loss to DEPARTMENT due to the negligence, intentional acts, or failure for any reason to comply with terms of this Contract.

B. CONTRACTOR agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of CONTRACTOR'S employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omission of CONTRACTOR and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

10. INSURANCE

A. **General Requirements:** CONTRACTOR shall maintain for the duration of the Contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by CONTRACTOR, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

Primary Insurance: CONTRACTOR'S insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of CONTRACTOR'S insurance and shall not contribute with it.

Deductibles and Self-Insured Retentions: Any deductible or self-insured retention must be declared to and approved by DEPARTMENT. At the request of DEPARTMENT either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, and volunteers; or (2) CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

Certificate of Insurance/Endorsements: A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverage's must be received by the Contracts Manager, PO Box 201301, Helena, MT 59620-1301 prior to start of work under this Contract. CONTRACTOR must immediately notify DEPARTMENT of any material change in insurance coverage, such as changes in limits, coverage's, policy status, etc. DEPARTMENT reserves the right to require complete copies of insurance policies at all times.

B. **Specific Requirements for Commercial General Liability:** CONTRACTOR shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, property damage, premises, operations, independent contractor's protective, products and completed operations, and broad form property damage of $1,000,000 per occurrence and $2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of CONTRACTOR or its officers, agents, representatives, assigns or subcontractors.

i. Property damage liability insurance shall be written without any exclusion for injury to or destruction of any building, structure, wires, conduits, pipes, or other property above or below the surface of the ground arising out of the blasting, explosion, pile driving, excavation, filling, grading or from the moving, shoring, underpinning, raising, or demolition of any building or structure or structural support thereof.

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered as additional insured's; for liability arising out of activities performed by or on behalf of CONTRACTOR, including the insured's general supervision of CONTRACTOR; products and completed operations; premises owned, leased, occupied, or used.

C. **Specific Requirements for Automobile Liability**: CONTRACTOR shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of $300,000 per occurrence and $600,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of CONTRACTOR or its officers, agents, representatives, assigns or subcontractors.

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered as additional insured's for automobiles leased, hired, or borrowed by CONTRACTOR.

11. ACCESS AND RETENTION OF RECORDS

CONTRACTOR agrees to provide DEPARTMENT, the Legislative Auditor, or their authorized agents with access to any records necessary to determine Contract compliance (Ref. 18-1-118, MCA). CONTRACTOR agrees to create and retain all records supporting the services rendered and/or supplies delivered for a period of three years after either the completion date of this Contract or the conclusion of any claim, litigation, or exception relating to this Contract taken by the State of Montana or a third party.

12. PUBLIC INFORMATION

CONTRACTOR recognizes that this Contract may be subject to public inspection pursuant to Article 2, § 9 of the Montana Constitution. DEPARTMENT has a limited ability to assert a privacy interest in the subject matter of the Contract particularly with respect to information which is in the nature of a "trade secret" as the phrase is defined in federal law. In any event, CONTRACTOR agrees to hold DEPARTMENT harmless from any injury caused, in whole or in part, by the review of this agreement by an entity authorized to do so pursuant to Article 2, § 9 of the Montana Constitution.

13. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

CONTRACTOR shall not assign, sell, transfer, sub-contract or sublet rights, or delegate duties under this Contract, in whole or in part, without the prior written approval of DEPARTMENT. No such written approval shall relieve CONTRACTOR of any obligations of this Contract and any transferee or sub-contractor shall be considered the agent of CONTRACTOR. CONTRACTOR shall remain liable as between the original parties to the Contract as if no such assignment had occurred.

14. AMENDMENTS

All amendments to this Contract shall be in writing and signed by the parties.

15. COMPLIANCE WITH LAWS

CONTRACTOR must comply with all applicable federal and state law including, but not limited to the prevailing wage laws, the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973.

16. TERMINATION AND DEFAULT

A. DEPARTMENT may, by written notice to CONTRACTOR, terminate this Contract in whole or in part at any time CONTRACTOR fails to perform as required in this Contract.

B. Either party may terminate this Contract without cause by providing written notice to the other as described in this paragraph. The party desiring to terminate the Contract shall provide written notice to the other, which notice will establish a termination date not less than 30 days from the date of such notice. The termination of this Contract shall not limit any party's pursuit of remedies provided in this Contract or otherwise available under the laws of the State of Montana.

C. DEPARTMENT, at its sole discretion, may terminate this CONTRACT if available funding is reduced.

D. Failure on the part of either party to perform the provisions of this Contract constitutes default. Default may result in pursuit of a remedy for breach of Contract including, but not limited to, monetary damages or specific performance.

17. CHOICE OF LAW AND VENUE

The laws of Montana govern this Contract. The parties agree that any mediation, arbitration or litigation concerning this Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees (Ref. 18-1-401, MCA).

18. FREEDOM FROM DISCRIMINATION

All parties of this Contract agree that all hiring must be done on the basis of merit and qualifications. There may be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the person or persons performing the Contract. However, construction work within an Indian reservation requires that a hiring preference be given to Indian residents of said reservation who have substantially equal qualifications. This preference will apply unless federal law specifically prohibits residency preference.

19. LICENSURE

CONTRACTOR agrees to provide copies of current licenses and certifications that register CONTRACTOR and any associates covered under this Contract.

20. ARBITRATION

Any claim arising out of, or related to, this Contract shall be settled by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. Judgment on the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof.

21. INTEGRATION

This Contract contains the entire agreement between the parties and no statement, promises, or inducements made by either party or agents thereof, which are not contained in the written Contract, shall be binding or valid. This Contract shall not be enlarged, modified, or altered except upon written agreement signed by all parties to the agreement.

22. SEVERABILITY

If any single part, or parts, of this Contract are determined void, the remaining parts remain valid and operative.

23. PERMITS/NOTICES/FEES

CONTRACTOR shall secure and pay for all permits and inspections; give all notices; pay all taxes and fees; and comply with all laws, ordinances, rules, regulations, and lawful orders bearing on the performance of the work.

24. LABOR/MATERIALS/EQUIPMENT

Unless otherwise specified, CONTRACTOR shall provide and pay for all labor, materials, equipment, tools, utilities, transportation, temporary construction, and services necessary for the proper execution and completion of the work. All material provided shall be new and in good condition. All workmanship shall be of good quality and in accordance with acceptable standards of the respective trades.

25. CONTRACTOR REGISTRATION

Construction contracts greater than $2,500.00 require Contractors to be registered with the Department of Labor & Industry under 39-9-201 and 39-9-204 MCA **prior** to Contract execution. A copy of the registration certificate must be provided to DEPARTMENT. **CONTRACTOR'S registration number is #1454 - expiration date of 5/08/12.**

26. GROSS RECEIPTS TAX

In compliance with 15-50-206 MCA, DEPARTMENT will withhold 1% of all payments due CONTRACTOR for Contracts over $5,000. CONTRACTOR is also required to withhold 1% of all payments due to its sub-contractors who perform work greater than $5,000 under this Contract. CONTRACTOR shall utilize the required forms and notify the Department of Revenue of the amount withheld.

27. COMPLETED CONTRACT

DEPARTMENT cannot disburse any payments under this Contract until a fully executed original Contract is returned to the Department of Corrections, Contracts Management Bureau, PO Box 201301, Helena, Montana 59620-1301.

SIGNATURE

DEPARTMENT

Jo Acton, Warden
Montana Women's Prison

1-4-12
Date

CONTRACTOR

~~Dave Ungerman~~ Jeff Blum, Sr. Vice President
KONE, Inc.

1-20-2012
Date 40107647

Approved for Legal Content by: Diana L. Koch
Legal Counsel
Department of Corrections

12/30/11
Date