MEMORANDUM OF UNDERSTANDING BETWEEN THE MONTANA DEPARTMENT OF CORRECTIONS AND THE OFFICE OF THE GOVERNOR AND TRANSCOR AMERICA, LLC

WHEREAS on April 16, 2004, the Office of the Governor and the Department of Corrections (hereinafter the "State") entered into a contract with TransCor America, LLC (hereinafter "TransCor"), for TransCor to provide prisoner transportation services for the State; and

WHEREAS on September 2, 2004, prisoners being transported by TransCor broke out of a TransCor van and escaped in a populated residential area of Helena, Montana; and

WHEREAS the purpose of this Memorandum of Understanding is to memorialize the understandings of the State and TransCor regarding measures to implement the April 16, 2004 contract and to put measures in place to enhance public safety and provide for the safe and orderly operation of inmate transportation;

BE IT RESOLVED that by September 20, 2004,

1. **TransCor** will not transport maximum custody or administrative segregation level inmates (as determined by Department of Corrections' Classification System) without a "chase car" to follow the transport. **TransCor** will provide the chase car unless more than one move that requires a chase car will take place on one day. In that case, DOC will provide the second chase car.

2. **TransCor** will possess in the transport vehicle a list called a "manifest." The manifest will be easily accessible. It will include the number of inmates in the transport, and for each offender transported, the offender's name and AO number, the offender's physical description, a current color photo that reflects the inmate's current physical description (it may be a Polaroid), the crime(s) for which the offender was convicted, and the aggregate amount of time to which the offender was sentenced;

3. **TransCor** will stop only at secure locations for restroom and meal breaks;

4. **TransCor** will stop only for emergencies on transports of three hours or less duration;

5. **TransCor** will notify local law enforcement with information about any scheduled or unscheduled stops in the local community including stops for fuel;

6. **TransCor** Regional Coordinator will e-mail notification of planned transports to and/or from Department of Corrections facilities. The notification will include the date of the transport, the names of inmates and where they will be dropped off

or picked up as well as the officers who will be doing the transport. TransCor Regional Coordinator will email the notification to the MWP Warden or her designee, MSP Admissions Manager, MSP Admissions Officer, and MSP Shift Captains. TransCor Regional Coordinator will provide the notification 24 hours in advance of the move. Transporting officers will notify the MDIU Control Officer or in cases of women prisoners, MWP Control Officer or shift commander by telephone if they are running behind schedule;

7. **TransCor** will house inmates at MDIU for no longer than three days without a written notification that they must house a prisoner longer. For a longer stay than three days, TransCor must provide written justification for the stay and written notification of the length of stay;

8. **TransCor** will pay DOC for the hygiene items DOC provides TransCor inmates;

9. **TransCor** will transport inmate property only in conformance with DOC policy 4.1.3 (Offender Personal Property)." TransCor will post a roster of inmates on a clipboard on top of their property lockers in the Admissions Area of MDIU. TransCor officers will complete this as they drop off or pick up inmates. If MDIU supplies hygiene items for TransCor inmates, this document will be used for billing purposes. TransCor officers will continue to provide the three-part form they have used in the past. This will be left in the basket on top of the property lockers.

10. **TransCor** will deliver with the inmate at the inmate's final destination, all records, the inmate's file, the 6-part medical file, medications, and the inmate's ID card.

11. **TransCor's** Captain will provide DOC with updated lists of TransCor transport officers. Department of Corrections will provide the written procedures that TransCor officers must use when they enter the MDIU and while they are in the MDIU. TransCor's Captain will provide TransCor officers with copies of these procedures.

12. **TransCor** will provide a lock box at MDIU for prisoners' medications. TransCor Regional Coordinator will fax a copy of the medical authorization list to the Infirmary Staff at MSP before a prisoner arrives at MSP MDIU. When TransCor officers arrive with medications for their prisoners, they will place the medication in the lock box. MSP Infirmary Staff will have a key to the lock box and will access the medications as needed for TransCor inmates. Only TransCor and MSP Infirmary Staff will have a key to this lock box. Any medications issued to TransCor inmates by the MSP Infirmary will be the responsibility of TransCor.

13. MDIU will provide a property box for MSP admissions for after hours. When TransCor arrives with an inmate for admission to MDIU/MSP during hours that

the admissions area is not staffed, MDIU officers will secure their property/money/paperwork in the property box. If medications accompany the inmate, the medications will be placed in the lock box for medications that is in the entry to the admissions area. Admissions Officers will take care of the property when they arrive for their next shift. Infirmary staff will take care of the medications;

14. **TransCor** officers will bring their transportation vehicle into the secure parking area in front of the admissions door when transporting inmates.

15. **TransCor** will not authorize anyone else to pick up or deliver inmates to DOC facilities. Any authorization must come from DOC officials.

16. **TransCor** will allow Department of Corrections to monitor and audit TransCor's compliance with the contract and this MOU.

BE IT ALSO RESOLVED that by October 8, 2004:

1. **TransCor** will consider a DOC inmate who has not been classified as a "close" custody inmate;

2. **TransCor** will provide handheld radios and cell phones for each transport agent/vehicle and will provide DOC with the cell phone's number for each transport;

3. **TransCor** will provide DOC Command Post with a travel manifest before a prisoner transport commences;

4. **TransCor** will require its transport officers to wear a firearm when appropriate.

BE IT FURTHER RESOLVED that the parties will research and discuss the following issues and reach agreement by December 1, 2004 about the following issues:

1. The best correctional practices that conform to statutory and case law that pertain to the use of deadly force by TransCor agents;

2. If TransCor could utilize new methods of less than deadly force, for instance, stun guns or shock belts;

3. If DOC can use TransCor's Global Positioning System (GPS) to track TransCor vans that carry Montana inmates.

Executed by the Parties on the date(s) set forth below:

Barbara Ranf, Chief of Staff
Office of the Governor

9-15-2004
Date

Director Bill Slaughter
Montana Department of Corrections

9/15/04
Date

Patrick M. McKinney, Pres. and CEO
TransCor America, LLC

9/13/04
Date

Approved for Legal Content by:

James W. Santoro, Chief Legal Counsel
Office of the Governor

09/14/04
Date