**IN THE HIGH COURT OF SOUTH AFRICA**

**(GAUTENG DIVISION, PRETORIA)**

**CASE NO: 37578/2015**

In the matter between:

| | |
|---|---|
| **CENTRE FOR APPLIED STUDIES** | **Applicant** |
| and | |
| **ACTING NATIONAL COMMISSIONER: IN THE DEPARTMENT OF CORRECTIONAL SERVICES** | **First Respondent** |
| **THE MINISTER OF JUSTICE AND CORRECTIONAL SERVICES** | **Second Respondent** |
| **G4S CORRECTIONAL SERVICES (BLOEMFONTEIN) (PTY) LTD** | **Third Respondent** |

# FILING NOTICE

**DOCUMENT FOR SERVICE & FILING: - RECORDS AS ORDERED IN THE JUDGMENT BY HONOURABLE JUDGE C.P RABIE ON 07 FEBRUARY 2020**

**DATED AT PRETORIA ON THIS THE 28TH DAY OF FEBRUARY 2020.**

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**TO:** **THE REGISTRAR OF THE ABOVE**
**HONOURABLE COURT**
**PRETORIA**

**AND TO:** **Centre for Applied Legal Studies**
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Dear Madam

**SUBJECT: 37578/2015 CALS JUDGMENT**

1. The above subject matter and its concomitants refer.
2. We hereby provide the following documents:
   (a) A copy of the unredacted documents entitled The Preliminary Investigation Findings Report of 26 June 2014 and The Bloemfontein Correctional Contracts (Pty) Ltd's Response to the report dated 26 June 2014 prepared by the Department of Correctional Services of 31 July 2014 ('Unredacted file volume 1 and 2'); and
3. In this regard we trust that you will appreciate that although the court has ordered us to deliver the unredacted documents to you, (which we have done), you retain the responsibility to treat information that is confidential, sensitive and personal to individuals who are identified in, or indentifiable from, the Unredacted file in a manner that complies with all legal prescripts.

4. We are always at your disposal should you need clarity.

5. Our rights are therefore reserved.

**A Fraser**
**National Commissioner**
**Date:** 2026/02/28

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

Private Bag x136, PRETORIA, 0001,c/o Sophie de bruin and WF Nkomo Street, Tel: (012) 305 8211, Fax: (012) 323 3476 e-mail:

Mr JI Mokoena

Bloemfontein Correctional Contracts

P O Box 43221

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Dear Mr Mokoena

**MANGAUNG CORRECTIONAL CENTRE PRELIMINARY INVESTIGATION FINDINGS**

1. **Introduction**

1.1. During the period when the Department was exercising its rights in terms of section 112 of the Correctional Services Act as amended, further allegations were brought to its attention which necessitated an investigation.

1.2. The findings of the investigations are listed in full hereunder.

1.3. The Department intends to exercise its rights in terms of the Conditions of Contract in relation to the findings of the investigation.

1.4. However, before it does so, the Department hereby invites the Contractor an opportunity to respond to the findings of the investigation, within 21 working days, from the date of receipt of these findings.

2. **Findings**

2.1. This section is divided into four categories, namely:-

2.1.1. Security Investigation Findings;

2.1.2. Health Investigation Findings;

2.1.3. Nutrition Investigation Findings; and

2.1.4. Staff Investigation Findings.

Security Investigations Findings

2.2. Use of force on inmates by officials

2.2.1. [redacted] was admitted at the health centre on 13 November 2012 for injuries sustained as a result of being assaulted by the officials.

2.2.2. Section 32(2) of the Correctional Services Act provides that:-

"*32(2) Force may be used only when authorised by the Head of the Correctional Centre, unless a correctional official reasonably believes that the Head of the Correctional Centre would authorise the use of force and that the delay in obtaining such authorisation would defeat the objective*".

2.2.3. Section 32(3)of the Correctional Services Act provides that:-

"32(3) *If, after a correctional official has tried to obtain authorization, force is used without prior permission, the correctional official must report the action taken to the Head of the Correctional Centre as soon as reasonably possible*".

2.2.4. Section 32(6) of the Correctional Services Act provides that:-

"32(6) *All instances of use of force in terms of subsection (2) and (3) must be reported to the Inspecting Judge, immediately*".

2.2.5. Clause 7.10.2 of Schedule D of the Conditions of Contract provides that:-

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"2.10.2 *Any use of force must be recorded and sanctioned wherever possible in advance by a senior member of Staff. Whenever force is used, a full report in writing must be submitted to the Controller within one hour of the conclusion of the incident. The Prisoner must be examined immediately by a qualified healthcare worker and as soon as possible but no more than 30 minutes after the incident, by a doctor within 1 hour and/or admitted to a hospital if necessary*".

2.2.6. There are no documents found to indicate that:-

2.2.6.1. the incident was recorded;

2.2.6.2. the incident was sanctioned by either a senior member of staff of the Head of Correctional Centre;

2.2.6.3. a full report in writing of the incident was submitted to the Controller within one hour of the conclusion of the incident;

2.2.6.4. the incident was reported to the Inspecting Judge.

2.2.7. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 32(2), 32(3), 32(6) of the Correctional Services Act and schedule D.2.10.2 of the Conditions of Contract, in that, it failed, to

2.2.7.1. record the incident;

2.2.7.2. obtain authority from a senior member of staff of the Head of Correctional Centre to use force;

2.2.7.3. submit a report in writing of the incident to the Controller within one hour of the conclusion of the incident;

2.2.7.4. report the incident to the Inspecting Judge.

2.3. Assault of Inmates by Inmates

2.3.1 [redacted] was admitted at the health centre on 6 June 2010, 10 November 2010, 15 September 2012 and 23 September 2012,

respectively, for injuries sustained as a result of being assaulted by other inmates.

2.3.2. [redacted] was admitted at the health centre on 2 January 2010, 18 February 2010 and 29 October 2012, respectively, for injuries sustained as a result of being assaulted by other inmates.

2.3.3. Section 22(1) of the Correctional Services Act provides that:-

"22(1) *Discipline and order must be maintained with firmness but in no greater measure than is necessary for security purposes and good order in correctional centre*".

2.3.4. Section 23(1)(h) of the Correctional Services Act provides that:-

"*23(1) An inmate commits a disciplinary infringement if he or she-*

*(h) commits an assault.*"

2.3.5. Section 24(1) of the Correctional Services Act provides that:-

"*24(1) Disciplinary hearings must be fair and may be conducted either by a disciplinary official, a Head of the Correctional Centre or an authorised official*".

2.3.6. There are no documents found to indicate that the Contractor instituted disciplinary hearings against the perpetrators.

2.3.7. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 22(1) and 24(1) of the Correctional Services Act, in that, it failed, to

2.3.7.1. maintain discipline and order in the correctional centre;

2.3.7.2. institute disciplinary actions against the perpetrators of assault.

2.4. Segregation

2.4.1. [redacted] was segregated on 8 June 2013.

2.4.2. Clause 2.8.3 of Schedule D of the Conditions of Contract provides that:-

"2.8.3 *There will be no automatic location of Prisoners into the Segregation Unit because of the nature of their offences or alleged offences or because they appear to fit a particular personality type. Nor should there be automatic segregation on the grounds that Prisoners have been separately located on a previous sentence or in another Prison. Decisions will be based on the individual's circumstances at that time and in that place. No Prisoner will be segregated without the approval of the Controller; other than in the case of operational necessity following which the CSC will be informed within 1 hour.*"

2.4.3. A copy of the application for permission to segregate him from 8 June 2013 to 15 June 2013 is not signed by the Controller.

2.4.4. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of Schedule D.2.8.3, in that, it segregated [redacted] from 8-15 June 2013 without the approval of the Controller under the circumstances where it ought to have obtained approval.

2.5. Taser Guns

2.5.1. There are two taser guns which were purchased by the Contractor. One taser guns was returned to the supplier due to factory fault.

2.5.2. The remaining taser gun was issued to [redacted] an EST - official to keep it in his official personal kit.

2.5.3. There is no official of the Contractor – including [redacted] - who is trained to use the taser gun.

2.5.4. Section 33(1) and (2) of the Correctional Services Act provides that:-

"*33(1) Non-lethal incapacitating devices may only be issued to a correctional official on the authority of the Head of the Correctional Centre.*

*(2) Such devices may only be used by a correctional official specifically trained in their use*".

2.5.5. There are no documents found to indicate that:-

2.5.5.1. the taser gun was issued on the authority of the Head of the Correctional Centre;

2.5.5.2. there is no official of the Contractor who is trained to use the taser gun.

2.5.6. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 33(1) and 33(3) of the Correctional Services Act, in that,

2.5.6.1. issued the taser gun without the authority of the Head of the Correctional Centre;

2.5.6.2. the official issued for the use of the taser gun is not trained.

2.6. Dark Room

2.6.1. This cell consists of a cement bed. It does not have a toilet, lighting, windows or ventilation.

2.6.2. Section 7 of the Correctional Services Act provides that:-

*"7 Accommodation*

*(1)* Inmates *must be held in cells which meet the requirements prescribed by regulation in respect of floor space, cubic capacity, lighting, ventilation, sanitary installations and general health conditions. These requirements must be adequate for detention under conditions of human dignity."*

2.6.3. Regulation 3(2)(b) and (c) of the Correctional Services Regulations provides that:-

*"3(2) (b) All accommodation must be ventilated in accordance with the National Building Regulations SABS 0400 of 1990 issued in terms of section 16 of the Standard Act, 1993 (Act 29 of 1993).*

*(c) Any cell utilised for the housing of inmates must be sufficiently lighted by natural and artificial lighting so as to enable an inmate to read and write".*

2.6.4. This cell was utilised by the Contractor to hold inmates. [redacted] died whilst he was held in this cell.

2.6.5. Whilst this cell was approved by the Department however it was not supposed to be utilised by the Contractor without lights and ventilation.

2.6.6. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 7 of the Correctional Services Act and Regulation 3(2)(b) and (c) of the Correctional Services Regulations, in that, it held inmates in this cell which it did not have lights and ventilation.

2.7 Hostage

2.7.1. On 22 September 2011 [redacted] was taken hostage by the inmates.

2.7.2. Despite the Contractor being informed of the hostage before it took place, however, the Contractor allowed the hostage to take place.

2.7.3. There was use of force and shooting by the Contractor to combat the hostage.

2.7.4. Section 4(2)(a) of the Correctional Services Act provides that:-

"*4(2)(a) The Department must take such steps as are necessary to ensure the safe custody of every inmate and to maintain security and good order in every correctional centre.*"

2.7.5. The introduction section of the Schedule D, Goal Two provides that:-

"*The Contractor will ensure a safe environment for Staff and Prisoners.*"

2.7.6. Section 34(6) of the Correctional Services Act provides that:-

"*34(6) (a) Rubber-type ammunition may as a general rule only be fired at a distance of more than 30 metres from a person.*

*(b) If such ammunition is fired at less than 30 metres from a person, the line of fire must be directed at the lower body of the person.*

*(c) Rubber-type ammunition may not be fired within a building.*

*(7) Whenever a firearm is used, its use must be reported in writing and as prescribed by regulation".*

2.7.7. Clause 1.22.2 of Schedule D of the Conditions of Contract provides that:-

"*1.22.2 Anytime a firearm (except when done so for training purposes) is discharged at a privately operated prison the DCS Controller will be notified immediately. This notification will be by telephone, two-way radio, and/or fax machine. This notification will be recorded in the official log. This notification will include but not be limited to the following:*

- *Reason for the discharge of the fire arm*
- *Staff member's name and rank discharging the firearms*
- *Name (s) of any person (s) injured*
- *Medical care rendered to any person injured*
- *Name (s) of any person (s) killed".*

2.7.8. With regards to allowing the hostage to take place despite having being informed of it prior to its taking place, the Contractor failed, to take the necessary steps to ensure a safe environment for the staff and inmates.

2.7.9. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 4(2)(a) of the Correctional Services Act and schedule D Goal Two of the Conditions of Contract, in that, it failed, to take the necessary steps to ensure a safe environment for the staff and inmates.

2.7.10. With regards to the use of force, there are no documents found to indicate that:-

2.7.10.1. the incident was recorded;

2.7.10.2. the incident was sanctioned by either a senior member of staff of the Head of Correctional Centre;

2.7.10.3. a full report in writing of the incident was submitted to the Controller within one hour of the conclusion of the incident;

2.7.10.4. the incident was reported to the Inspecting Judge.

2.7.11. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 32(2), 32(3), 32(6) of the Correctional Services Act and schedule D.2.10.2 of the Conditions of Contract, in that, it failed, to

2.7.11.1. record the incident;

2.7.11.2. obtain authority from a senior member of staff of the Head of Correctional Centre to use force;

2.7.11.3. submit a report in writing of the incident to the Controller within one hour of the conclusion of the incident;

2.7.11.4. report the incident to the Inspecting Judge.

2.7.12. There are no documents found to indicate that the Contractor instituted disciplinary hearings against the perpetrators.

2.7.13. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 22(1) and 24(1) of the Correctional Services Act, in that, it failed, to

2.7.13.1. maintain discipline and order in the correctional centre;

2.7.13.2. institute disciplinary actions against the perpetrators of assault.

2.7.14. With regards to the use of the fire arm there are documents found to indicate that:-

2.7.14.1. the Controller was notified immediately of the discharge of the fire arm;

2.7.14.2. the rubber-type ammunition was fired within a building.

2.7.15. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 34(6)(c) of the Correctional Services Act and Schedule D.1.22.2, in that,

2.7.15.1. it fired a rubber-type ammunition within a building;

2.7.15.2. the use of the fire arm was not reported in writing as prescribed by the regulation.

2.8. Shooting - on 16 September 2013

2.8.1. There was an unrest that was caused by four inmates on 16 September 2013.

2.8.2. [redacted] - one of the inmates - was injured on the eye when he was shot by rubber type ammunition during this incident.

2.8.3. When the Contractor reported the incident to the Controller it did not report the shooting incident.

2.8.4. Section 34(6) of the Correctional Services Act provides that:-

"*34(6) (a) Rubber-type ammunition may as a general rule only be fired at a distance of more than 30 metres from a person.*

*(b) If such ammunition is fired at less than 30 metres from a person, the line of fire must be directed at the lower body of the person.*

*(c) Rubber-type ammunition may not be fired within a building.*

*(7) Whenever a firearm is used, its use must be reported in writing and as prescribed by regulation*".

2.8.5. Clause 1.22.2 of Schedule D of the Conditions of Contract provides that:-

"*1.22.2 Anytime a firearm (except when done so for training purposes) is discharged at a privately operated prison the DCS Controller will be notified immediately. This notification will be by telephone, two-way radio, and/or fax machine. This notification will be recorded in the*

*official log. This notification will include but not be limited to the following:*

- *Reason for the discharge of the fire arm*
- *Staff member's name and rank discharging the firearms*
- *Name (s) of any person (s) injured*
- *Medical care rendered to any person injured*
- *Name (s) of any person (s) killed".*

2.8.6. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 4(2)(a) of the Correctional Services Act and schedule D Goal Two of the Conditions of Contract, in that, it failed, to take the necessary steps to ensure a safe environment for the staff and inmates.

2.8.7. With regards to the use of force, there are no documents found to indicate that:-

2.8.7.1. the incident was recorded;

2.8.7.2. the incident was sanctioned by either a senior member of staff of the Head of Correctional Centre;

2.8.7.3. a full report in writing of the incident was submitted to the Controller within one hour of the conclusion of the incident;

2.8.7.4. the incident was reported to the Inspecting Judge.

2.8.8. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 32(2), 32(3), 32(6) of the Correctional Services Act and schedule D.2.10.2 of the Conditions of Contract, in that, it failed, to

2.8.8.1. record the incident;

2.8.8.2. obtain authority from a senior member of staff of the Head of Correctional Centre to use force;

2.8.8.3. submit a report in writing of the incident to the Controller within one hour of the conclusion of the incident;

2.8.8.4. report the incident to the Inspecting Judge.

2.8.9. There are no documents found to indicate that the Contractor instituted disciplinary hearings against the perpetrators.

2.8.10. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 22(1) and 24(1) of the Correctional Services Act, in that, it failed, to

2.8.10.1. maintain discipline and order in the correctional centre;

2.8.10.2. institute disciplinary actions against the perpetrators of assault.

2.8.11. With regards to the use of the fire arm there are documents found to indicate that:-

2.8.11.1. the Controller was notified immediately of the discharge of the fire arm;

2.8.11.2. the rubber-type ammunition was fired within a building.

2.8.12. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 34(6)(c) of the Correctional Services Act and Schedule D.1.22.2, in that,

2.8.12.1. it fired a rubber-type ammunition within a building;

2.8.12.2. the use of the fire arm was not reported in writing as prescribed by the regulation.

Health Investigation Findings

2.9. Forcibly injecting inmates with anti-psychotic medication

2.9.1. [redacted] was forcibly injected with the anti-psychotic medication on 19 February 2010 and 25 February 2010;

2.9.2. On 28 September 2011 it was recommended that [redacted] should be forcibly injected with the anti-psychotic;

2.9.3. On 24 May 2013 Dr. [redacted] instructed the nurse to use force if necessary to administer the anti-psychotic drug to [redacted]

2.9.4. Section 9 of the Mental Health Care Act provides that:-

> *"9(1) A health care provider or a health establishment may provide care, treatment and rehabilitation services to or admit a mental health care user only if –*
>
> *(a) the user has consented to the care, treatment and rehabilitation services or to admission;*
>
> *(b) authorised by court order or a Review Board; or*
>
> *(c) due to mental illness, any delay in providing care, treatment and rehabilitation services or admission may result in the --*
>
> *(i) death or irreversible harm to the health of the user;*
>
> *(ii) user inflicting serious harm to himself or herself or others; or*
>
> *(iii) user causing serious damage to or loss of property belonging to him or her or others".*

2.9.5. Section 26 of the Mental Health Care Act provides that:-

> *"26 Subject to section 9(1)(c), a mental health care user may not be provided with assisted care, treatment and rehabilitation services at a health establishment as an outpatient or inpatient without his or her consent, unless –*
>
> *(a) a written application for care, treatment and rehabilitation services is made to the head of the health establishment concerned and he or she approves it";*

2.9.6. Section 32 of the Mental Health Care Act provides that:-

> *"32 A mental health care user must be provided with care, treatment and rehabilitation services without his or her*

*consent at a health establishment on an outpatient or inpatient basis if-*

*(a) an application in writing is made to the head of the health establishment concerned to obtain the necessary care, treatment and rehabilitation services and the application is granted;"*

2.9.7 It appears that all the inmates mentioned above were forcibly injected with the anti-psychotic medication in contravention of the Mental Health Care Act, in that, there was no written application for care, treatment and rehabilitation services made to the head of the health establishment concerned to provide care, treatment and rehabilitation services to the inmates without their consent.

2.9.8. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 9(a), section 26 and section 32 of the Mental Health Care Act, in that, it failed, to make an application in writing to the head of health establishment to provide care, treatment and rehabilitation services to the inmates without their consent.

2.10. Expired prescription

2.10.1. According to the pharmacy profile report of [redacted] he was issued with the clopixol on 26 February 2013.

2.10.2. According to his medical records, the doctor's prescription for the clopixol was done on 12 July 2012.

2.10.3. Section 22A(6)(g) of the Medical and Related Substances Act (Act 101 of 1965) provides that:-

*"(6) Any sale under subsection (5) shall only take place on condition that-*

*(g) in the case of a Schedule 5 substance, such sale shall not be repeated for longer than six months, and then only if the authorised prescriber has indicated on the prescription the number of times and the intervals at which it may be dispensed";*

2.10.4. Section 22A(6)(l) of the Medical and Related Substances Act (Act 101 of 1965) provides that:-

*"(6) Any sale under subsection (5) shall only take place on condition that-*

*(i) in the case of a Schedule 6 substance, it shall not be repeated without a new prescription being issued".*

2.10.5. Under the circumstances, when [redacted] was issued with the clopixol on 26 February 2013 it was more than six months after it was prescribed. Therefore this issue was in contravention of the Medical and Related Substances Act.

2.10.6. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 22A(6)(g) and section 22A(6)(i) of the Medical and Related Substances Act, in that, it issued medication in respect of a prescription that was more than six months.

2.11. Telephonic prescription not confirmed in writing within the prescribed time

2.11.1. On 24 May 2013 the nurse - [redacted] - obtained a telephonic prescription from Dr. [redacted] to administer clopixol on [redacted].

2.11.2. This telephone prescription was not confirmed in writing.

2.11.3. Section 22A(6)(b) of the Medical and Related Substances Act (Act 101 of 1965) provides that:-

*"(6) Any sale under subsection (5) shall only take place on condition that-*

*(b) the authorised prescriber who has given verbal instructions to a pharmacist to dispense a prescription shall within seven days after giving such instructions furnish such pharmacist with a prescription confirming such instructions".*

2.11.4. There are no documents found to indicate that the telephonic prescription was confirmed in writing.

2.11.5. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of Section 22A(6)(b) of the Medical and Related Substances Act, in that, it failed, to confirm a telephone prescription in writing.

2.12. Failure to keep records

2.12.1. According to the pharmacy profile report of [redacted] he was issued with clopixol on 11 July 2013.

2.12.2. Section 5 of the Regulations promulgated under notice 660 of 2012 in terms of the Nursing Act, 2005 (Act 33 of 2005) setting out the acts or omissions in respect of which the Council may take disciplinary steps provides that:-

"(5) failure to maintain the health status of a patient under his or her care through –

(h) failure to keep clear and accurate records of all actions performed to a patient."

2.12.3. There are no medical records to confirm the administration of the aforementioned clopixol.

2.12.4. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 5(h) of the Nursing Act, 2005, in that, it failed, to keep clear and accurate records of all actions performed to a patient.

2.13. Over supply of medication

2.13.1. [redacted] was issued with clopixol on the same month, in particular, on 11 July 2013 and 25 July 2013.

2.13.2. [redacted] was issued with 90 risperlet tables on 11 September 2013, 63 risplet tablets on 12 September 2013.

2.13.3. Section 5 of the Regulations promulgated under notice 660 of 2012 in terms of the Nursing Act, 2005 (Act 33 of 2005) setting out the acts or omissions in respect of which the Council may take disciplinary steps provides that:-

*"(5) failure to maintain the health status of a patient under his or her care through –*

*(h) failure to keep clear and accurate records of all actions performed to a patient."*

2.13.4. There are no records indicating why there was over supply of medication to [redacted] and [redacted], respectively.

2.13.5. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 5(h) of the Mental Health Care Act, in that, it failed, to keep clear and accurate records of all actions performed to the patients.

2.14. Falsification of records

2.14.1. On 18 June 2013 and 25 July 2013 the nurse – [redacted] – recorded in the medical records of [redacted] that he administered the injection on him whereas on those dates he was not on duty.

2.14.2. Section 5 of the Regulations promulgated under notice 660 of 2012 in terms of the Nursing Act, 2005 (Act 33 of 2005) setting out the acts or omissions in respect of which the Council may take disciplinary steps provides that:-

*"(5) failure to maintain the health status of a patient under his or her care through –*

*(h) failure to keep clear and accurate records of all actions performed to a patient."*

2.14.3. Under the circumstances the aforementioned conduct of the nurse – [redacted] – amounts to the falsification of records.

2.14.4. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 5(h) of the Nursing Act, 2005, in that, it failed, to keep clear and accurate records of all actions performed to a patient.

2.15. Overdose

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2.15.1. According to the medical records the psychiatrist dose which was prescribed to [redacted] on 24 July 2013 was 150mg, whereas according to the medicine administration chart on 25 July 2013 [redacted] was given 200mg.

2.15.2. Regulation 4 of the Regulations promulgated under notice 660 of 2012 in terms of the Nursing Act, 2005 (Act 33 of 2005) setting out the acts or omissions in respect of which the Council may take disciplinary steps provides that:-

*"(4) failure to carry out such acts in respect of the assessment, diagnosing, treatment, care, prescribing, collaborating, referral, coordinating and patient advocacy as the scope of practice permits."*

2.15.3. Regulation 5(b) of the Regulations promulgated under notice 660 of 2012 in terms of the Nursing Act, 2005 (Act 33 of 2005) setting out the acts or omissions in respect of which the Council may take disciplinary steps provides that:-

*"(5) failure to maintain the health status of a patient under his or her care through –*

*(b) the correct and appropriate administration of treatment and care."*

2.15.4. Under the circumstances on 25 July 2013 [redacted] was given an overdose medication.

2.15.5. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of regulation 4 and regulation 5 of the Nursing Act Regulations, in that, it failed, to

2.15.5.1. carry out such acts in respect of the assessment, diagnosing, treatment and care of the patient.

2.15.5.2. maintain the correct and appropriate administration of treatment and care

2.16. Long delays between the time the medication is dispensed for a particular inmate and the time that the medication is actually administered.

2.16.1. According to the prescription clinical notes, [redacted] was given a prescription of a clopixol on 12 June 2013.

2.16.2. The clopixol was administered on [redacted] on 18 June 2013.

2.16.3. Regulation 4 of the Regulations promulgated under notice 660 of 2012 in terms of the Nursing Act, 2005 (Act 33 of 2005) setting out the acts or omissions in respect of which the Council may take disciplinary steps provides that:-

*"(4) failure to carry out such acts in respect of the assessment, diagnosing, treatment, care, prescribing, collaborating, referral, coordinating and patient advocacy as the scope of practice permits."*

2.16.4. Under the circumstances there was a delay between the time the medication was prescribed and the time the medication was administered.

2.16.5. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of regulation 4 of the Nursing Act Regulations, in that, it failed, to carry out such acts in respect of the assessment, diagnosing, treatment and care of the patient.

2.17. Pharmacist issued less medication than what was prescribed

2.17.1. On 28 March 2013 the psychiatrist prescribed 35 tablets for [redacted], whereas on the very same day [redacted] was given 7 tablets.

2.17.2. Under the circumstances on 28 March 2013 [redacted] was issued less medication than was prescribed.

2.17.3. Section 1.5.1(a)(ii) of the Good Pharmacy Practice provides that:-

*"1.5.1 The following services and/or acts are regarded to be acts specially pertaining to a pharmacist –*

*(a) The provision of pharmaceutical care by taking responsibility for the patient's medicine-related need and being*

*accountable for meeting these needs, which shall include but not limited to the following functions:*

(ii) *dispensing of any medicine or scheduled substance on the prescription of a person authorised to prescribe medicine*";

2.17.4. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of Section 1.5.1(a)(ii) of the Good Pharmacy Practice, in that, it issued less medication that what was prescribed amounts to contravention of section 1.5.1(a)(ii) of the Good Pharmacy Practice in that the dispensing was not in accordance with the prescription.

2.18. Death Investigation Reports

2.18.1. The investigation reports for the following deceased do not have autopsies:-

2.18.1.1. [redacted];

2.18.1.2. [redacted] and

2.18.1.3. [redacted]

2.18.2. The investigation reports of [redacted] and [redacted] are not signed. .

2.18.3. Investigations reports of [redacted] and [redacted] are not available.

2.18.4. There is a discrepancy between the findings of the reported cause of death in the investigation of [redacted]. The G4S investigation report records the cause of death as suicide whilst the pathologist records it as head wound.

2.18.5. Section 15 of the Correctional Services Act provides that:-

"*15(1) Where an inmate dies and a medical practitioner cannot certify that the death was due to natural causes, the Head of the Correctional Centre must in terms of section 2 of*

*the Inquests Act, 1959 (Act 58 of 1959), report such death.*

*(2) Any death in correctional centre must be reported forthwith to the Inspecting Judge who may carry out or instruct the National Commissioner to conduct any enquiry.*

*(3) The Head of the Correctional Centre must forthwith inform the next of kin of the inmate who has died or, if the next of kin are unknown, any other relative."*

2.18.6. Section 2 of the Inquest Act provides that:-

*"2(1) Any person who has reason to believe that any person has died and that death was due to other than natural causes, shall as soon as possible report accordingly to a policeman, unless he has reason to believe that a report has been or will be made by any other person".*

2.18.7. Regulation 9 of the Correctional Services Act provides that:

*"9(1) (e) The head of the correctional centre must keep a record and report all deaths in correctional centre, such record and report must reflect all the particulars required by the Order."*

2.18.8. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 15 of the Correctional Services Act, Section 2 of the Inquest Act and Regulation 9 of the Correctional Services Act Regulations, in that, it failed, to keep a record and report of all deaths in the correctional centre.

Staffing Investigations Findings

2.18.9. After the custodial staff was dismissed untrained staff was appointed.

2.18.10. In relation to the staffing norms it does not appear that the Contractor meets with its requirements of the legislation, in particular, the Employment Equity Act.

2.18.11. Section 109(2) of the Correctional Services Act provides that:-

"109(1) *The Contractor must appoint custody officials to perform custodial duties.*

(2) *No employee of the Contractor may perform custodial duties unless he or she has been certified as a custody official by the National Commissioner."*

2.18.12. Clause 6.8.4 of Schedule D of the Conditions of Contract provides that:-

"6.8.4 *No person (s) will be permitted to work full – or part time in the facility until the following requirements have been met:*

- *Security check is completed and the DCS has verified that the person is suitable for employment.*
- *The person has successfully completed pre-service training.*
- *Certification of custodial Staff by the Commissioner of Correctional Services".*

2.18.13 Clause 6.8.5 of schedule D of the Conditions of Contract provides that:-

"6.8.5 *All proposed Staff details will be submitted to the DCS for security checking and approval. No person will work in the Prison who has not satisfied these checks."*

2.18.14. Clause 6.8.9 of the Conditions of Contract provides that:-

"6.8.9 *The requirement of the maintenance specific occupation will be met with the employment of suitably qualified and certificated personnel with appropriate experience. The contractor will ensure that only appropriately qualified, certificated or authorised personnel will be employed on any task where such qualification is required."*

2.18.15. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of section 109(2) of the Correctional Services Act, Schedule D.6.8.4, Schedule D.6.8.5 and Schedule D 6.8.9 in that, it

permitted staff to work in the facility without the staff having to be security checked, verified by the Department and certified by the Commissioner.

Nutrition Investigations Findings

2.19. Quantity, Quality of food provided to inmates

2.19.1. The inmates are served with one vegetable per serve once a day instead of two vegetable per serve once a day.

2.19.2. Portions given to the inmates are smaller than portions stipulated in the DCS policy.

2.19.3. The inmates are not served with meat.

2.19.4. Fruit is only given to the inmates once in a cycle.

2.19.5. The inmates are not provided with suitable eating utensils.

2.19.6. The Prisoner Assistant Caterers are not trained.

2.20. Clause 3.24.1 of Schedule D of the Conditions of Contract provides that all prisoners will be provided with suitable eating utensils that are consistent with their security status or mental health concerns.

2.21. Clause 3.24.1 provides that there shall be comprehensive training in the Vocational Training Kitchen located in the Kitchen building which will lead to a qualification as part of a degree or equivalent through external accreditation with a recognized University or College.

2.22. Regulation 4(2) of the Correctional Services Act provides that

*"4(2) The diet must provide for a balanced distribution of food items according to the following food groups, namely:*

*(e) meat and protein."*

2.23. Clause 3.24.1 of Schedule D of the Conditions of Contract provides that:

*"3.24.1 Prisoner Assistant Caterers will be selected to work in the Kitchen only after stringent medical and allocation tests and comprehensive*

*training in the Vocational Training Kitchen located in the Kitchen building.*

- *Prisoner Assistant Caterers employment will lead not only to an Outcome Based (OB) Qualification but, following suitable performance, to qualifications as part of a degree or equivalent through external accreditation with a recognized University or College".*

2.24. The Contractor is hereby invited to give reasons why it should not be held to be in contravention of Schedule D.3.24.1 of the Conditions of Contract, Regulation 4(2) of the Correctional Services Act, Procedure Manual Nutritional Services, in that, it failed to:-

2.24.1. serve the required vegetable per serve;

2.24.2. serve the appropriate portions to the inmates;

2.24.3. serve meat to the inmates;

2.24.4. serve the required number of fruits per cycle to the inmates;

2.24.5. provide appropriate eating utensils to the inmates;

2.24.6. train the Prisoner Assistant Caterers.

3. **Conclusion.**

The Contactor is requested to respond comprehensively on the findings made above within 21 working days as stated above.

Yours sincerely,

Zi [illegible]odlee

Acting National Commissioner

Date: 2014/06/26

BLOEMFONTEIN CORRECTIONAL CONTRACTS

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**BLOEMFONTEIN CORRECTIONAL CONTRACTS (PTY) LTD'S RESPONSE TO THE REPORT DATED 26 JUNE 2014 PREPARED BY THE DEPARTMENT OF CORRECTIONAL SERVICES**

**Introduction:**

- On 26 June 2014 the Department of Correctional Services ('DCS') issued a 'Preliminary Investigation Findings Report' ('the DCS Report') in respect of its investigation conducted on the Mangaung Correctional Centre ('MCC').
- The DCS Report makes reference to various incidents of alleged non-compliance by Bloemfontein Correctional Contracts (Pty) Ltd ('BCC') of its contractual as well as statutory obligations relating to the management of the MCC. BCC has investigated the incidents raised in the DCS Report and has prepared this response.
- In preparing this response, we note that many of the incidents referred to in the DCS Report date back much earlier than 2013 and some to as early as 2008. As is evident from the information set out below and the supporting documentation provided with this response, many of the DCS's concerns, as listed in the Report were dealt with by BCC appropriately at the time they arose. With regard to the DCS's more recent findings, we have responded as best we can to those where we have access to relevant information. In relation to the others, it appears that DCS relies on documents that are not in BCC's or its sub-contractor's possession. Several requests were made for these documents, but in the absence of such documents, BCC has prepared this response without regard to these documents in order to comply with the deadline for submission, being 31 July 2014. BCC trusts that it will not be prejudiced by any failure on its part to respond fully to allegations made on the basis of such documents. If these documents are made available to BCC, the incidents concerned will be fully investigated and BCC will submit a supplementary response dealing with such incidents.
- We also note that the DCS relies on Regulation 5(h) of the Nursing Act of 2005. These regulations have not been promulgated yet and the BCC has accordingly been working in accordance with the Regulations Relating to the Keeping, Supply, Administering or Prescribing of Medicines by Registered Nurses Act, 1978 published in Government Gazette number 9483 dated 2 November 1984, which are currently in force. Having said that, we do not intend to ignore the draft regulations and commit to working with the DCS to ensure full compliance with the best practices in the industry.
- BCC re-iterates its desire to be as co-operative as possible in regard to the process initiated by the DCS. BCC has provided this response with a view to resolving any concerns which the DCS may have regarding the implementation of the Contract. To this end this response includes a "Proposals" column which suggests proposals to improve the services BCC renders. BCC will also strive to accommodate any additional suggestions made in this regard by the DCS. This response and the proposals contained in it are accordingly provided on a without prejudice basis and purely for the purposes of resolving the issues that have been raised by the DCS. The Contractor's rights to oppose any claims and/or legal proceedings that may be instituted remain strictly reserved.
- We note that many of DCS's concerns relate to different understandings of what BCC should do under the operational specifications of the Contract. Those specifications are necessarily very broadly stated, and the particular "inputs" are left to BCC. We are happy to discuss DCS's preferences with it, to see how we can accommodate them within our contractual and budgetary constraints, or where doing so will need amendments to the Contract.

- BCC commits itself to actively manage the Contract and is actively taking steps to increase its capacity to do this, and will be more engaged in doing this.
- This report consists of two lever arch files, including annexures. Reference is also made to the DCS reports of 2009, 2010, 2011, 2012 and 2013, attached as annexures 2.1(A), (B), (C),(D) and (E) respectively in which the Contractor was thanked and commended for its high level of compliance with the Contract.
- BCC is available at any time to discuss the contents of the attached response and trusts that the parties can move forward in the spirit of cooperation.

| Security Investigation Findings: | | | | |
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| **Number** | **DC's Findings** | **Summary of Allegations** | **Reply:** | **Proposals** |
| 2.2 | Use of Force on Inmates by Officials: | • Inmate was assaulted by MCC official.<br>• MCC failed to report incident to DCS Controller and Inspecting Judge | • [redacted] is a psychiatric patient who refused to attend the Health Centre on 13 November 2012. In the circumstances, the use of force was applied for and approved by the Controller.<br>• On [redacted]'s admission at the Health Centre he was examined and there were no visible signs of any injuries.<br>➢ The incident was recorded in an incident report and medical report which are attached as annexure 2.2(A).<br>➢ The incident was sanctioned by a senior member of staff of the Head of the Correctional Centre and the Controller – See annexure 2.2(B)<br>➢ The time period stipulated in Schedule D2.10.2 of the Conditions of Contract have been amended by a series of correspondence between the Contractor and DCS dated 19 June 2003, 24 June 2003 and 14 July 2003, attached marked 2.2(C), 2.2(D) and 2.2(E) respectively. The Contractor is now afforded 24 hours to submit a written report and not 1 hour as previously stipulated in the Conditions of Contract.<br>➢ A full report in writing of the incident was submitted to the Controller within 24 hours of the conclusion of the incident. The report to the Controller is attached marked annexure 2.2(F).<br>➢ In addition, representatives of the Judicial Inspectorate attend the MCC on a daily basis and have access to the Contractors' registers on the use of force.<br>➢ As far as the Contractor is aware, an online platform, to which the Contractor does not | 1. Section 32(6) of the Correctional Services Act 111 of 1998 provides that all instances of use of force must be reported to the Inspecting Judge immediately. There is some ambiguity as to who is responsible to report such instances of use of force. G4S currently reports use of force to the Controller. G4S has relied on the Controller to report such incidents to the Inspecting Judge via the online platform. The Contractor proposes that in addition to the reports sent to the Controller, G4S also send reports simultaneously to the Inspecting Judge by way of a separate letter to be faxed or e-mailed or by sending the report to both the Controller and the Inspecting Judge.<br>2. We suggest that G4S be granted access to the online platform to facilitate the reporting of use of force directly to the Inspecting Judge. |

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| | | | have access, exists between the Controller and the Inspecting Judge in terms of which reports of this nature may be made by the Controller to the Inspecting Judge. Reference is made to annexure 2.2(G), being an extract from minutes of an Operational Meeting held on 3 November 2005 which confirms that the Contractor does not have access to the online platform | |
| 2.3 | Assault of inmates by inmates: | • Two inmates had been assaulted by other inmates.<br>• MCC had failed to maintain discipline.<br>• MCC had failed to institute disciplinary action against inmates. | Section 22(1) of the Correctional Services Act provides that discipline and order must be maintained "with firmness but in no greater measure than is necessary for security purposes and good order". In MCC, the Contractor has a structured day programme with scheduled activities that are integral parts of the Services contracted for. These require that inmates inevitably have contact with each other, and it submits that within the requirements of its various programmes it does apply firm measures within the limits of what is necessary for security and good order, and with due regard to the rights and safety of inmates at MCC.<br><br>The Contractor acknowledges that notwithstanding those measures inmates do occasionally assault each other, but submits that this is not because it fails to maintain discipline as required.<br><br>Section 22(3) of the Correctional Services Act provides that:<br><br>*"Disciplinary action may be taken against any inmate, even though criminal proceedings may be pending or in progress against such inmate."*<br><br>(our underlining for emphasis)<br><br>• The Contractor exercises its discretion as to whether to initiate disciplinary proceedings against inmates for assaults on other inmates, having due regard to the provisions of the Correctional Services Act, the circumstances of the incident and the rights of inmates. Having | It is suggested that in addition to the actual reporting of the incident, an additional report is filed which documents the consultation and interview of any witnesses, the interview and discussion with the Medical Practitioner concerned, the actual noting of a complaint by the "Assaulted" inmate/victim, questioning of the assailant, and what thought process was applied in determining whether to take disciplinary action or not. This process should be properly documented in a separate report.<br><br>It is suggested further that a duplicate inmate file and medical record be maintained in a centralised location as a backup, subject to the provisions of PoPI.<br><br>Once a decision is taken to initiate disciplinary proceedings against an inmate, a uniform procedure should be followed to ensure substantive and procedural fairness. A policy and procedures manual will assist G4S to institute proceedings which are consistent and fair. |

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| | | | exercised its discretion, the Contractor's election not to initiate disciplinary proceedings will not constitute a breach of the Correctional Services Act.<br><br>[redacted]<br><br>• On 6 June 2010 [redacted] was escorted to the Health Centre following an alleged fist fight with another inmate. [redacted] was examined and no visible injuries were noted. The incident report and medical records are attached as annexure 2.3(A).<br>• On 10 November 2010 an alleged scuffle occurred between [redacted] and another inmate. [redacted] was escorted to the Health Centre where he was examined and no injuries were noted. The incident report and medical record are attached as annexure 2.3(B) hereto.<br>• No disciplinary proceedings were instituted against [redacted] in respect of the incidents on 6 June and 10 November 2010 despite allegations that other inmates were involved. No visible injuries were noted, in either incident. In the circumstances the Unit Manager, applying the discretion afforded to him by Section 22(3) of the Correctional Services Act, took the decision not to institute disciplinary proceedings due to the fact that there was insufficient medical evidence that an assault between inmates had taken place.<br>• On 15 September 2012, [redacted] fell out of his bed. He was taken by stretcher to the Health Centre where he was examined and no injuries were noted.<br>➢ Copies of the incident report and medical record are attached as annexure 2.3(C).<br>➢ No disciplinary action was taken in respect of this incident because it was not a case of an assault on an inmate by another inmate.<br><br>• On 15 September 2012, [redacted] fell out of his bed again and sustained a minor injury to | |

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his right eyebrow. He was escorted to the Health Centre where he was examined and treated.

- Copies of the incident report and medical record are attached as annexure 2.3(D).
- No disciplinary action was taken in respect of this incident because it was also not a case of an assault of an inmate by another inmate

- On 23 September 2012, [redacted] jumped over the fence at the exercise yard. Use of force was applied for and approved by the Controller but was not used. [redacted] was escorted to the Health Centre where he was examined and no injuries were noted.

  - The use of force register, incident report and medical record are attached as annexures 2.3(E) and 2.3(F) respectively.
  - No disciplinary proceedings were instituted against [redacted] or any other inmate because this was also not a case of an assault on an inmate by another inmate.

[redacted]

- [redacted] was transferred from the MCC to DCS' custody on or about 8 August 2013. As it is standard practice for the inmates file to be transferred with the inmate, [redacted]'s inmate file is no longer available to the Contractor.
- Nevertheless, based on documents which are in the Contractor's possession, the Contractor has been able to ascertain that:
  - On 18 February 2010, [redacted] was escorted to the Health Centre following planned use of force which was approved by the Controller. A copy of the use of force register is attached as annexure 2.2(G).
  - The use of force was necessary because [redacted] refused to obey a reasonable



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| | | | and lawful instruction. He was examined at the Health Centre and was noted to have sustained a superficial laceration on the left upper eyelid in respect of which he received treatment. Copies of the incident report and medical record are attached as annexure 2.3(H).<br>➢ No disciplinary action was taken against Buthelezi or any other inmate because it was not a case of an assault by one inmate on another.<br><br>• The Contractor is unable to respond to the allegations made in respect of the alleged incidents on 2 January 2010 and 29 October 2012 as it has no documents at all relating to these alleged incidents and no longer has access to [redacted]s inmate file. The Contractor requests copies of the documents relating to these alleged incidents to enable the Contractor to investigate and respond in full. | |
| 2.4 | Segregation: | • Inmate segregated without obtaining approval from DCS Controller. | • [redacted] was not segregated on 8 June 2013 in contravention of Schedule D 2.8.3 of the Conditions of Contract.<br>• On 8 June 2013 [redacted] assaulted an employee of the Contractor.<br>• An application for segregation of inmate [redacted] was made but was ultimately not approved. In these circumstances, [redacted] could not be and was not segregated.<br>• Following consultation with the Controller, [redacted] was sent to Intermediate Section, where he was accommodated in a standard communal cell pending the investigation of the incident. A copy of the application for segregation is attached as annexure 2.4(A).<br>• The process followed when there has been a transgression by an inmate is briefly the following:<br>(1) The Unit Manager or Deputy Director will complete an application for segregation that requires authorisation by the Controller. Such documentation is completed in the presence of the | |

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| | | | transgressing inmate, who is informed of G4S' intention to have him segregated. The inmate is asked to state whether he would want to appeal a decision to segregate him, if such a decision is authorised by the Controller, as this information would need to be conveyed by the Controller to the Inspecting Judge.<br>(2) That application document, including an indication of the inmate's intention to appeal a prospective decision to segregate him, is submitted to the Controller for approval.<br>(3) In the case of [redacted] the application to segregate him was not approved by the Controller as is evidenced by the handwritten notation at the foot of page 1 of the documents attached as annexure 2.4(A). For the sake of clarity, the note states that: *"Mr Controller did not approve application, he indicated that Duty Director and Director Residential care must first consult with him, due to the assault by Employee"*.<br>(4) [redacted] was accordingly sent to Intermediate Section. Copies of the Movement Register and Cell Admission Certificate are attached as annexure 2.4(B) evidencing the fact that [redacted] was held in the Intermediate Section.<br><br>• Approval by the Controller is not required to move an inmate to the Intermediate Section. This is because an Intermediate Action Plan dated 5 December 2011 and Amended Action Plan dated 30 April 2012 dealing with the referral of inmates by G4S to the Intermediate Section was approved by the Controller. We attach a copy of the documents evidencing the Controller's approval of the action plans as annexure 2.4(C)<br>• In terms of those Action Plans and in particular the Amended Action Plan, the decision to place an inmate in Intermediate Section is made by the Deputy Director of Residential Care or | |

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| | | | Campus Manager based on the recommendation of the investigation officer or the intermediate team. The approval of the Controller is accordingly not necessary in those circumstances. | |
| 2.5 | Taser Guns: | • Taser Gun issued without the authority of the Head of the Correctional Centre.<br>• The Custodial Official to whom Taser Gun had been issued was not properly trained in its use. | • Two Taser guns were purchased by the Contractor to evaluate the feasibility of their use at the MCC as non-lethal incapacitating devices. One was returned to the supplier due to a factory fault.<br>• However, the Contractor was in any event not satisfied with the quality of the Taser guns purchased and these were therefore never issued or authorised for use within the MCC or elsewhere, and were never used by the Contractor or its employees at the MCC or elsewhere.<br>• The remaining Taser gun that was not sent back to the supplier was stored in the armory in the administrative building at the MCC.<br>• A copy of an affidavit deposed to by [redacted] inter alia confirming that a Taser gun was never issued to him or to any other employee is attached as annexure 2.5(A). | • Any appliances or devices that are purchased for evaluator purposes ought to be kept and stored at a separate facility offsite for safety purposes.<br>• The process of purchasing, issuing and training of officials in respect of such devices ought to be documented separately. |
| 2.6 | Dark Room: | • An inmate died whilst being held in the 'Dark Room'.<br>• The Dark Room is not compliant with applicable Legislation and/or Regulations i.e. same did not have lights and/or air ventilation. | • It is assumed that the DCS's reference to a "dark room" means the "quiet room" as the Contractor does not make use of a 'dark room'.<br>• The quiet room was built in accordance with plans approved by the DCS. Copies of the building plans are attached as annexure 2.6(A), (B), (C) and (D) which indicate the provision of ventilation and lighting systems.<br>• The quiet room was designed and built in accordance with the National Building Regulations SABS0400 of 1990.<br>• Prior to 2008, the quiet room was utilized by the Contractor as temporary accommodation for inmates, as approved by the DCS.<br>• [redacted] did commit suicide in the quiet room in 2005. This incident was investigated by the Supervisory Committee and was resolved in 2011.<br>• At no time during the use of the quiet room for | |

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| | | | accommodation purposes did it fail to comply with legislative or contractual provisions.<br>• The cell, as approved by the DCS, was never used without lights and ventilation.<br>• At all times, the room was fitted with adequate ventilation systems and lighting.<br>• In 2008, a change order request was submitted to the DCS and approved, to disable the lock of the quiet cell due to the change of function of the cell from that of accommodation purposes to that of storage facility. Copies of the documents evidencing the structural changes to the "quiet room" are attached as annexure 2.6(E).<br>• Since 2008, the quiet room has not been used for accommodation purposes. It has simply been used as a storage facility.<br>• Copies of photographs attached as annexures 2.6(F), (G) and (H) respectively show the quiet room as it currently appears. The existence of ventilation and lighting systems are evident in the photographs. | |
| 2.7 | Hostage: | • [redacted], a Workshop Supervisor, was taken hostage despite MCC having prior knowledge that this may occur and as such MCC had failed to maintain discipline.<br>• MCC failed to obtain authorization for use of force in order to diffuse the above situation.<br>• MCC failed to report the use of firearms and rubber ammunition to Controller.<br>• MCC had failed to institute disciplinary action against inmates. | • An incident did occur on 22 September 2011, but it was not a hostage situation. Prior to the incident, the Contractor received information that an incident may occur in the workshop area. The Contractor was not informed of the nature of the anticipated incident i.e. that it was intended to be a hostage situation.<br>• The Contractor responded appropriately by deploying EST Members (Emergency Services Team) to the workshop area in addition to the custodial officials already stationed there. Certain inmates then attempted to take hostage [redacted] a workshop supervisor. However, members of the EST Team intervened and [redacted] was released immediately.<br>• During this incident, the EST Members utilized non-lethal incapacitating devices in the form of paintball marker devices loaded with soft paint filled balls and not firearms loaded with rubber ammunition.<br>• In the circumstances, appropriate intervening action was taken by the Contractor to diffuse | • The Contractor proposes that in addition to the reports sent to the Controller, reports should also be sent simultaneously to the Inspecting Judge by way of a separate letter to be faxed or e-mailed or by sending the correspondence to both the Controller and directly to the Inspecting Judge.<br>• It is recommended that G4S be granted access to the online platform to facilitate the reporting of use of force directly to the Inspecting Judge |

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| | | | the situation.<br>• The incident was duly recorded and reported to the Controller on 22 September 2011.<br>• Copies of the incident report and medical records in respect of the attempted assault on [redacted] dated 22 September 2011, the incident report in respect of the unplanned use of force on inmates, the use of force register and the report to the Controller regarding the use of a non-lethal incapacitating device dated 22 September 2011 are attached as annexures 2.7(A), 2.7(B), 2.7(C) and 2.7(D).<br>• Given the nature of the incident and the manner in which the EST Team procured the release of [redacted], it cannot be said that the Contractor contravened section 4(2)(a) of the Correctional Services Act or Schedule D, Goal two of the Conditions of Contract. The Contractor at all relevant times ensured the safe custody of every inmate and maintained security and good order in the MCC and ensured a safe environment for staff and prisoners in compliance with Schedule D, Goal two.<br>• The incident was recorded, the authority from a senior member of staff and the DCS Controller in respect of the use of force was obtained and the Contractor submitted a report in writing of the incident to the Controller within 24 hours as can be seen from the annexures referred to above. In addition representatives of the Judicial Inspectorate attend the MCC on a daily basis and have access to the Contractors' registers on the use of force.<br>• The Contractor maintained discipline and order in the MCC by deploying EST Members, and dealing with the situation swiftly and effectively.<br>• The Contractor is not obliged by Section 24(1) or any other provision of the Correctional Services Act to institute disciplinary actions against the perpetrators of assault. Disciplinary charges were laid against the relevant inmates by the Contractor. Copies of the offence reports in respect of the incident are attached | |

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| | | | as annexure 2.7(E).<br>• The DCS has stated in paragraph 2.7.14 of the Preliminary Investigation Findings Report that there are documents found to indicate that the Controller was notified of the discharge of a firearm and that rubber type ammunition was fired within the building. The Contractor has no knowledge of such documents and requests the DCS to provide it with copies so that the allegations can be investigated and a detailed response provided.<br>• The Contractor in any event denies that rubber type ammunition was fired within a building or at all during the incident. The EST Members used non-lethal incapacitating devices in the form of paintball marker devices loaded with soft paint filled balls (which cause much less damage and far fewer physical injuries to inmates). Reference is made to annexures 2.7(A), 2.7(B) and 2.7(D). The injuries documented in these annexures are inconsistent with the use of rubber type ammunition. | |
| 2.8 | Shooting – 16 September 2013: | • Riot instigated by four inmates in the Unit where they were being held. The relevant inmates thereafter escaped from their Unit into an open area between the various Units situated on the MCC premises.<br>• MCC utilized firearms and rubber ammunition but failed to notify the DCS Controller thereof.<br>• MCC had failed to maintain discipline.<br>• MCC had failed to institute disciplinary action against inmates. | • Four inmates caused unrest on 16 September 2013. Unplanned use of force was used which was reported to the Controller and was sanctioned by both a senior member of staff of the Correctional Centre and the DCS Controller. Copies of the incident report, medical documents and the written report which was submitted to the Controller are attached as annexures 2.8(A), 2.8(B) and 2.8(C).<br>• The Contractor duly reported the shooting incident in writing to the Controller in compliance with Section 34(7) of the Correctional Services Act. A copy of the Contractor's letter dated 23 September 2013 is attached as annexure 2.8(A).<br>• The following report was also made by [redacted] of the Contractor to the DCS Controller on 16 September 2013:<br>➢ That a warning shot with a 9mm pistol was fired by [redacted] into the ground to stop inmates from a possible escape; | |

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| | | | ➢ That three warning shots were fired by [redacted] with a shotgun with rubber bullets;<br>➢ That three warning shots were fired by [redacted] with the shotgun with rubber bullets.<br><br>• At no time was any rubber type ammunition fired within a building. All shots fired were fired as warning shots, with the aim of restoring order.<br>• Medical reports for [redacted], attached as annexure 2.8(A), indicate that the injuries sustained by [redacted] were inconsistent with those typically sustained during the use of rubber type ammunition. [redacted] sustained laceration injuries.<br>• Seven inmates were criminally charged with malicious damage to property under Case No: 22/50/14 at the Bloemspruit Police Station and copies of the J7 warrants in respect of these inmates are attached as annexure 2.8(D).<br>• The Contractor contends that it maintained discipline and order at MCC at all times, in the measure that was necessary for security purposes and good order in the Correctional Centre. | |
| **Health Investigation Findings** | | | | |
| | **DCS's Findings:** | **Summary of Allegations:** | **Reply:** | **Proposals:** |
| 2.9 | Forcibly injecting inmates with Anti – Psychotic Medication | • Three inmates were forcibly injected with anti – psychotic mediation on various dates in contravention of the Mental Health Care Act | • The Contractor is unable to respond meaningfully to the allegations raised by DCS at this stage for the following reasons:<br><br>[redacted]<br><br>• [redacted] was transferred to Grootvlei prison on 8 August 2013. As is the practice, [redacted]'s inmate file, together with his patient records, were transferred with him. The Contractor has requested the DCS to provide a copy of [redacted]s inmate file so that the incident can be investigated and the Contractor can respond to the preliminary finding made by the DCS. | The Health Services Contract will be going out on tender in the near future. The appointed contractor will be made aware of the issues raised in the DCS's Preliminary Investigation Findings Report, the DCS's concerns and the requirements of the Contract. The new health services subcontractor will be made aware of the required ethical standards to be applied by it, and suitable contractual terms for that will be included in its contract. |

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| | | | [redacted]<br>• It is alleged that [redacted] was forcibly injected with anti-psychotics. It appears that DCS is relying on information and/documents not in the Contractor's possession for example the pharmacy profile report dated 11 July 2013. Copies of the documents relied upon by DCS are required in order to investigate the matter further.<br>• From the documents in the Contractor's possession, the following are noted:<br>➢ According to the Mental Health Progress Continuation Chart of [redacted], a clinical psychologist, noted, on 28 September 2011, that the inmate "refused to come to the clinic" and that she "will ask the [doctor] to write [a] repeat script and that the [prescription] should be given by force".<br>➢ There is, however, no corresponding prescription from a medical practitioner or psychiatrist indicating that any medication should be administered to [redacted] by force. The next entry in [redacted] Progress Continuation Chart is by a psychiatrist, Doctor [redacted] on 22 February 2012, which indicates that [redacted] was being treated for schizophrenia, that there were no side-effects of the medication, and prescribing Clopixol for a period of six months.<br>➢ An examination of the Medicine Administering Chart of [redacted] for the relevant period indicates that he refused the administration of a Clopixol depot on 23 September 2011 (five days before it is alleged that it was administered to him by force). Although there are subsequent entries in the chart reflecting the administration of Clopixol depots to him in October and November 2011, there is no record of Clopixol having being administered to [redacted] at all on 28 | |

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| | | | September 2011 (let alone by force) or of Clopixol being administered to him by force on any of the other days on which it was administered.<br>➢ There is also no record of a request to G4S from FLHS for the use of force in respect of [redacted]. If the forcible administration of medication had been recommended by the doctor for [redacted] we would expect such a record to exist as this is standard operating practice in any situation where the forcible administration of medication is required in respect of an inmate.<br><br>• We note that the administration records for [redacted] for the relevant period appear to be missing from his patient file. FLHS is currently conducting an internal investigation in an attempt to locate these records. If these administration records are in DCS's possession, we kindly request DCS to provide us with a copy of these records.<br>• In the circumstances, while it appears that a clinical psychologist indicated that she would ask a doctor to write a repeat script and to authorise the forcible administration of the prescription, there is no evidence to suggest that a psychiatrist or other doctor in fact recommended the use of force in respect of [redacted] and, more importantly, there is no record that force was in fact applied to him in administering his medication.<br>• In the circumstances, there is no reason to believe that [redacted] was forcibly injected with anti-psychotic medication. There is on the contrary, evidence which suggests that this was not the case.<br>• Copies of [redacted] Progress Continuation Chart and Administering Control Chart are attached as annexures 2.9(A) and 2.9(B) respectively.<br><br>[redacted]<br><br>• [redacted] was transferred into DCS' custody. [redacted] inmate file, together with his | |

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| | | | patient records, was transferred with him. The Contractor has requested the DCS to provide a copy of [redacted]s inmate file so that the incident can be investigated and the Contractor can respond to the preliminary finding made by the DCS. | |
| 2.10 | Expired Prescription | • Inmate issued with medication on a date which was in excess of 6 (six) months after it was prescribed which is in contravention of . the Medical and Related Substances Act. | • [redacted] was issued with a repeat prescription for Clopixol, a schedule 5 medicine in terms of section 22A(6)(g) in terms of the Medicines Act on 12 July 2012. The clopixol was dispensed to [redacted] against this prescription on 26 February 2013, six weeks after the six month period provided for in section 22A(6)(g).<br>• This irregularity may have occurred as a result of an oversight on the part of the pharmacist. | • FLHS's management has taken up this irregularity with the relevant pharmacist and has explained the importance of careful monitoring of repeat prescription.<br>• FLHS is in the process of implementing a new electronic pharmacy system aimed at improving controls relating to the dispensing of medication. |
| 2.11 | Telephonic Prescription not Confirmed in Writing within the Prescribed Time | • Nurse obtained a telephonic prescription from treating Doctor to administer medication.<br>• Telephonic prescription not confirmed in writing as required by the Medical and Related Substances Act. | • As stated above, [redacted] was transferred from MCC. The Contractor no longer has Mr Diamini's inmate file and cannot respond to the DCS's allegation.<br>• However, Doctor [redacted] is still practicing at MCC. He has confirmed that he authorised the administration of Clopixol to [redacted] telephonically on 24 May 2013 and that he recorded this in the referral note that was written to the relevant psychiatrist. In the absence of [redacted]s patient file, Doctor [redacted] was unable to comment further on this allegation. | • FHLS has undertaken to initiate further training of staff in relation to the dispensing and administration of medication. |
| 2.12 | Failure to Keep Records: | • According to the pharmacy profile an inmate was issued with medication on 11 July 2013 however no record exists confirming the administration of the medication to the inmate which is in contravention of the Nursing Act. | • As stated above, [redacted] was transferred from MCC. The Contractor no longer has [redacted]s inmate file and cannot respond to the DCS's allegation.<br>• Be that as it may, there is an obligation of FHLS's staff and in particular its nurses to keep proper records including the administration of medication, dosage etc.<br>• FLHS as well as the nurses in its employ are aware of the obligation on nurses to enter the name, quantity, strength, schedule and dosage of the medicine administered, together with the date and time of administration, on the | • The Contractor notes the DCS's concerns and will work with FHLS to improve its record keeping. FHLS has begun to centralize its record keeping and is retraining its staff. The Contractor will also work with its Operating Subcontractor, FHLS and any health services contractor appointed following the envisaged tender process to enhance the professional standards of the health services rendered. |

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| | | | patient's file pursuant to the act of administering a medicine to a patient (Regulations Relating to the Keeping, Supply, Administering or Prescribing of Medicines by Registered Nurses, published under the Nurses Act, 1978 in Government Notice R2418 in Government Gazette 9483 on 2 November 1984).<br>• The control of medicines at MCC, requires the nurse to record information regarding the medication actually administered to a patient pursuant to a prescription (for example, the name of the medicine, dosage, date/time of administration, signature of administering nurse and effects of the medicines) on "the relevant nursing document', which is the patient's Medicine Administering Control Chart.<br>• The phrase "ward stock", refers to a cache of medicines kept in the hospital which have been dispensed by a pharmacist on specific prescriptions for particular patients. The medicines are kept in ward stock so as to be administered to the patient in the manner indicated in the prescription. Ward stock is thus not "dispensed" by a nurse, it is rather dispensed by a pharmacist and administered by the nurse to the patient to whom the medication is prescribed. | |
| 2.13 | Over Supply of Medication | • Two inmates were over supplied with medication.<br>• No records exist clarifying why there was such an oversupply which is in contravention of the Nursing Act. | • The process for the issuing of medicines to patients at the FLHS facility begins with a prescription from a medical practitioner, which is dispensed by the pharmacist to a nurse who then administers the medicines in accordance with the prescription.<br>• It is standard operating practice for the nurses at FLHS to keep what is known as "ward stock", that is medicines dispensed by the pharmacist in terms of a prescription for a particular patient, which is stored in the ward for the purposes of administering the medicine to the relevant patient. The keeping of ward stock ensures that there is a controlled and sufficient supply of the medicines that are to be administered to the patients as per their | |

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| | | | prescription.<br>• In the cases of [redacted] and [redacted], the medication would have been issued to a nurse who would, in turn, control the administration of the medication to the patients. This system of dispensing and storing medicines is common practice in health establishments. It ensures that adequate stock is on hand for the patients and that medicines are administered in a safe and orderly manner.<br>• According to [redacted]'s prescription, dated 22 August 2013, he was prescribed a three-week supply of a 6mg Risperiet equivalent (which is to be administered daily). The dispensing note attached to this prescription, dated 12 September 2013 and reflecting the patient number [redacted], indicates that a total of 63 2mg Risperiet tablets were dispensed in terms of this prescription (this equates to a three-week supply of 6mg (three tablets) per day).<br>• In terms of [redacted]'s subsequent prescription, dated 11 September 2013, he was prescribed a one-month supply of a 6mg Risperiet equivalent. The dispensing note, dated 11 September 2013 and reflecting the patient number [redacted], indicates that 90 2mg Risperiet tablets were dispensed in terms of this prescription (this equates to a one-month supply of 6mg (three tablets) per day). Copies of [redacted]s prescriptions, dispensing notes and Stock Movement Detail are attached as annexures 2.13(A), 2.13(B) and 2.13(C).<br>• It is correct that the prescriptions, despite being issued three weeks apart, were dispensed on sequential days. In all likelihood the Risperiet so dispensed was simply retained in ward stock and was administered daily by the nurses in accordance with [redacted]'s prescription.<br>• In terms of [redacted]'s subsequent prescription, dated 9 October 2013, he was prescribed an increased dose of 8mg of the Risperiet equivalent which is to be administered daily (and the prescription appears to provide for one repeat). The dispensing note attached | |

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| | | | to this prescription, dated 9 October 2013, reflecting the patient number [redacted], indicates that 120 2mg Risperlet tablets where dispensed in terms of this prescription (this equates to a one-month supply of 8mg (four tablets) per day).<br>• We note that FLHS's Stock Movement Detail report indicates that a further 120 Risperlet tablets were dispensed to [redacted] (patient number [redacted]) on 4 November 2013 (this is presumably the repeated one-month's supply of the Risperlet in terms of the 9 October prescription).<br>• FLHS's Stock Movement Detail report indicates that Risperlet tablets were returned to the pharmacy on 6 and 8 November 2013 in respect of [redacted] (patient number [redacted]), and then smaller amounts were immediately re-issued on each of those dates. This adjustment indicates that stock issued in respect of [redacted] was simply kept in ward stock, and at those dates the excess stock was returned to the pharmacy.<br>• There is thus no indication that the issuing of additional volumes of Risperlet in respect of [redacted] resulted in over dosing of the patient or that the administration records are inaccurate. Proper records of actions performed in respect of the patient were indeed retained.<br>• FHLS has no record that Clopixol was dispensed to [redacted] during July 2013. To the extent that DCS has a record of the allegations contained in the Report, the Contractor requests such documents to assist with its investigation into the matter. | |
| 2.14 | Falsification of Records | • Nurse recorded in inmate's medical records that it had administered medication to the inmate on specified dates however the Nurse was not on duty on the dates in question.<br>• Failure to maintain accurate records of a patient's care is a contravention of the | • It is indeed correct that [redacted] was not on duty on 18 and 25 July 2013. We do not have copies of the documents relied upon by the DCS in order to respond to this finding. We request the Department to make the documents which it relied upon for this finding, available to the Contractor. | • FHLS will implement a file auditing process to improve controls in relation to the dispensing and administration of medications<br>• This particular incident will be investigated and depending on the outcome, disciplinary proceedings and/or the appropriate legal action will be taken |

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| | | Nursing Act. | | |
| 2.15 | Overdose | • According to medicine administration chart an inmate was administered a dosage in excess of the prescribed amount which is in contravention of the Nursing Act. | • The Contractor does not have copies of the documents which the DCS relies upon for this finding.<br>• Clopixol comes in an ampule of 200mg which is a standard dose. It is thus impossible for a pharmacist to dispense a 150mg ampule. It is standard practice in such circumstances for a pharmacist to dispense the 200mg ampule and for the label on the ampule to indicate that 150mg is to be administered. The nurse would be provided with both the labeled ampule as well as the prescription, both of which would indicate the prescribed 150mg dose. The standard practice would then be for the nurse to measure out and only administer the required dose and to discard the remaining, unused contents of the ampule.<br>• The Contractor requests all documents relating to these allegations so that the matter can be investigated further by FHLS. | • This issue is still to be investigated, where after recommendations may be made. |
| 2.16 | Long Delays between the Time the Medication is Dispensed for a Particular Inmate and the Time that the Medication is actually Administered | • According to prescription clinical notes an inmate was prescribed medicine on 12 June 2013 but only administered same on 18 June 2013. | • The Contractor is not in possession of any medical records for [redacted] for the period June 2013. The DCS is requested to provide the Contractor with the documents in DCS's possession relating to this alleged incident so that the matter can be investigated.<br>• While a meaningful response cannot be given at this stage, it is not unusual for prescribed medication not to be administered on the day that it is prescribed or dispensed as nurses are routinely issued with ward stock to ensure that there is a sufficient supply of medication for a patient. This common practice does not in itself give rise to an irregularity.<br>• The Contractor will expand on this response pending the receipt of further documents and/or information. | • This issue is still to be investigated, where after recommendations may be made. |
| 2.17 | Pharmacist Issued Less Medication than Prescribed | • Inmate issued less medication than was prescribed. | • The Contractor does not have records for [redacted] for June 2013. The Contractor requests the documents in the DCS's possession so that it can respond meaningfully to the allegation.<br>• As explained above, sometimes medicine is | • This issue is still to be investigated, where after recommendations may be made.<br>• The Contractor proposes that the medical contractor, who is |

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| | | | dispensed but is not necessarily given to the patient the same day as it is kept in ward stock for future administration.<br>• That being said, this matter will be investigated further upon receipt of documents from DCS. | appointed subsequent to the completion of the tender process, is monitored to ensure that it dispenses medication in accordance with scripts correctly and timeously. |
| 2.18 | Death Investigation Reports | • Death Investigation Reports are either not available, signed or include an autopsy report.<br>• In respect of death of [redacted] a discrepancy exists between MCC report and pathologists records, MCC records the death as a suicide whilst pathologist records it as a head wound.<br>• MCC to confirm that all unnatural deaths are reported to Police and next of kin and also that a record is kept of all deaths at MCC. | **Autopsy Reports**<br>• The Contractor is not required, as part of its obligations to keep a record or report of all deaths, or to obtain or retain a copy of an autopsy report.<br>• The obligation on the Head of the Correctional Facility following the death of an inmate due to unnatural causes is to report the death. It is then the responsibility of the appropriate State institution to investigate and report on such investigation. The Contractor has complied with its obligations in this regard.<br>• Despite there being no obligation on the Contractor to obtain autopsy reports for inmates, the Contractor is in possession of autopsy reports in respect of [redacted] and [redacted], copies of which are attached as annexures 2.18.1(A) and 2.18.1(B) respectively. The Contractor has, in the time available, not located a copy of the autopsy report for [redacted]. The Contractor did, however, report [redacted]'s death to the South African Police Services under case no. 453/9/2012 in accordance with section 2 of the Inquests Act.<br><br>**Investigation Reports Not Signed**<br>• In paragraph 2.18.2 of the DCS Report, it is alleged that the investigation reports of [redacted] and [redacted] are not signed.<br>• There is no obligation upon the Contractor either in terms of the Correctional Services Act or the Inquest Act for investigation reports to be signed. Accordingly there can be no contravention of any legislation by the Contractor.<br>• The Contractor in any event attached copies of the investigation reports of both [redacted] | |

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| | | | and [redacted] as annexures 2.18.2(A) and 2.18.2(B) respectively. The reports are in fact signed by the Investigating Officer concerned.<br>**Investigation Reports Not Available**<br>• It is alleged in paragraph 2.18.3 that the investigation reports in respect of [redacted] and [redacted] are not available.<br>• Copies of the investigation reports of [redacted] and [redacted] are attached as annexures 2.18.3(A) and 2.18.3(B) respectively.<br>**Discrepancy Between Findings**<br>• In paragraph 2.18.4 it is alleged that there is a discrepancy between the findings of the reported cause of death in the investigation of [redacted] in that the G4S Investigation Report records the cause the death as suicide whilst the Pathologist records it as a head wound.<br>• The pathologist's report records the cause or likely cause of death as "consistent with either hanging by the neck or ligature strangulation", and the history provided to the Pathologist by the Police is that the deceased "self-ophang" i.e. hanged himself. No reference is made in the pathologist report to a "head wound". A copy of the pathologist's report is attached as annexure 2.18.4(A).<br>• The Investigation Report by G4S does not pronounce upon the cause of death but comments on an apparent suicide whereby inmate [redacted] tore his jacket sleeve and had tied it around the door hinge to hang himself inside the "quiet cell" in the special treatment unit. A copy of the Investigation Report is attached as annexure 2.18.4(B).<br>**General**<br>• The Contractor has complied fully with its obligations in terms of Section 15 of the Correctional Services Act, Section 2 of the | |

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| | | | Inquest Act or Regulation 9 of the Correctional Service Act in that the Contractor has at all times reported all deaths in the Correctional Centre in accordance with the above legislation. | |

| Number | DCS's Findings: | Summary of Allegations | Reply: | Proposals: |
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| 2.18.9 | Staffing Investigation Findings | • MCC failing to meet its requirements in respect of Legislation, particularly the Employment Equity Act.<br>• MCC permitted persons to work at the MCC who were not security checked, did not complete their pre – service training and were not certified by the DCS as custodial officials. | **Employment Equity**<br>• The Contractor is uncertain as to exactly which obligations have not been complied with by the Contractor. If the Contractor's response does not address DCS's concerns fully, the DCS is requested to identify which requirements of the Employment Equity Act the Contractor has failed to comply with and the Contractor will then investigate the specific instances and address them separately.<br>• An Employment Equity Committee has been set up which comprises the Director of Human Resources and Special Projects of the MCC, two members of Management of the MCC, a disabled employee and four members of POPCRU.<br>• An Employment Equity Plan was prepared by the Employment Equity Committee in 2010 and covers the period October 2010 to September 2015. The Employment Equity Plan has been submitted to the National Inspector for Correctional Services. A copy of the Employment Equity Plan is attached as annexure 2.18.9(A).<br>• A report is submitted annually to the Department of Labour by the Contractor regarding its employment equity for that particular year.<br>➢ The Department of Labour has acknowledged G4S Correction Services (Bloemfontein) (Pty) Ltd successful completion of the Employment Equity Report and has entered that organisation on the Employment Equity Public Register. Copies of letters from the Department of Labour are attached as annexures 2.18.9(B), (C) and (D) respectively. In | • The Contractor acknowledges that as a result of an unprotected strike, the normal staff complement required for the control of MCC reduced drastically. Given the circumstances of the incident and the fact that G4S maintained overall control of MCC despite staff shortages, it is submitted that any non-compliance with section 109 of the Correctional Services Act be considered within the context of an illegal strike and overarching priority to keep all inmates safe. Despite the difficult circumstances order and safety was maintained at MCC.<br>• The dismissed employees have subsequently been re-employed by G4S. The additional staff is certified and trained and will be deployed at MCC as soon as the Contractor has access to the facility. |

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| | | | addition, the DCS in its annual inspection report confirmed that the Contractor complies with its obligations in terms of the contract relating to equal opportunities. In this regard, the DCS has confirmed that the Contractor complies with Schedule D, Goal six, paragraph 6.4.1, paragraph 6.4.2, paragraph 6.4.3 and paragraph 6.4.6 of the Conditions of Contract. The relevant extract from the Confidential Inspection Report by the DCS dated 2 April 2013, is attached hereto as annexure 2.18.9(E).<br>➢ Copies of the two most recent Annual Employment Equity records submitted to the Department of Labour are attached as annexures 2.18.9(F) and 2.18.9(G).<br>➢ G4S is working towards achieving its targets on occupational levels as per its Employment Equity Plan up to 2015, and has made progress in that regard.<br>➢ [redacted], is currently acting as Director: Residential Care. He will be appointed as the Centre Director once G4S has access to the facility. A draft change to the existing organogram was submitted and will be discussed at the Contractor's Board meeting. The appointment of a Centre Director will take place subject to consultation with the National Commissioner of the DCS.<br><br>**Section 109(2) and clauses 6.8.4 and 6.8.5**<br><br>• The Contractor is also not certain as to the respects in which it is alleged to have contravened Section 109(2) of the Correctional Services Act or Clauses 6.8.4 and 6.8.5 of the Contract If the Contractor's response does not address DCS's concerns fully, the DCS is requested to identify the respects in which it has failed to comply with section 109(2) of the Act and the Contractor will then investigate the specific instances and address them separately.<br>• The Contractor is of the view that it has | |

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| | | | complied with Section 109(2) of the Correctional Services Act and Clauses 6.8.4 and 6.8.5 of the Contract for the following reasons:<br>➢ Following the illegal strike action by MCC employees, and the consequent dismissal of 326 employees, the Contractor deployed G4S security officials to perform non-custodial duties at the MCC.<br>➢ Following the illegal strike and dismissal of employees that occurred in September 2013, 84 custodial officials who were not part of the illegal industrial action remained in place to perform custodial duties at the MCC.<br>➢ In order to maintain safety and order at the MCC, security guards employed by G4S Secure Solutions (Pty) Limited and who had previously been security checked by G4S Secure Solutions according to the same criteria employed by G4S Care and Justice, were placed on a shortened training programme and deployed to the MCC under the direct supervision of the existing custodial officials, the Unit Manager and Unit Supervisor.<br>➢ The DCS' allegations of non-compliance with the Contract due to staffing issues was raised previously by the Department in its Observation Notice No. 8 of 2013/2014, which has been addressed by both G4S and BCC. Copies of G4S and BCC reports respectively are attached as annexures 2.18.9(H) and 2.18.9(I).<br>➢ It should also be noted that after the implementation of the Section 112 Notice, the DCS continued to use the security guards until they were replaced by correctional officials in the Department's employ.<br>➢ The Controller, in a letter to G4S dated 19 September 2013, acknowledged that "the presence of security guards at Mangaung Correctional Centre was for protection of property and life only, which is not a problem with Controller's office". See | |

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| | | | annexure H, attached to annexure 2.18.9(H).<br><br>• To the extent that these employees had not been verified by DCS as suitable for employment, the Contractor had on several occasions made proposals to the DCS on the deployment of suitable persons at the MCC. In this regard, reference is made to correspondence by the Contractor to the DCS dated 17 September 2013 and 30 September 2013 in which the Contractor formally requested the DCS's assistance as a matter of urgency by supplying it with correctional officials currently employed by DCS who were accredited and trained to fulfill the duties and obligations of custody officials required at the MCC. Copies of these letters are attached as annexure 2.18.12(A) and (B) respectively.<br>• The Contractor was facing an emergency situation and was obliged in terms of the contract and the Correctional Services Act to take all reasonable steps to ensure the safety of inmates, employees and the community. The Contractor did this but in order to do so, had to balance strict compliance with relevant legislation against the immediate requirement for the establishment of a safe and secure centre for employees and inmates.<br><br>**Clause 6.8.9**<br><br>• The Contractor ensured that only appropriately qualified, certificated or authorised personnel would be employed on any task where such qualification was required. | |
| 2.19 | Quantity, Quality of Food Provided to Inmates | • MCC is not providing the inmates with the required vegetable per serving, the correct portions, meat, the required number of fruits or appropriate eating utensils.<br>• Prison Assistant Caterers are not being trained. | • The Contractor's obligations in respect of nutrition at the MCC are governed by Regulation 4 of the Correctional Services Act, as well as Clause 3.24 of the Conditions of Contract. The Contractor is not aware of the DCS's Procedure Manual Nutritional Services, which does not form part of the Contractor's contractual or legal obligations. | • The Contractor's menus are nutritionally compliant. However, the Contractor takes cognizance of the DCS's concerns regarding the current menus and is willing to work with the DCS to explore other menu combinations that are nutritionally compliant and within |

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| | | | • Regulation 4 and the Conditions of Contract do not stipulate the number of vegetables to be served, the size of the portions, or the frequency at which fruit is given to inmates per cycle.<br>• The Contractor follows a nutritional plan that has been drawn up by a nutritionist and has been reviewed annually by the Compass Group, the Service Provider of food services at the MCC.<br>• Compliance with nutritional requirements has been confirmed annually by a dietician at the Compass Group in compliance with the Conditions of Contract. We attach the confirmation of compliance for 2013 and 2014 as annexure 2.19.1(A).<br>• In addition, the Contractor's compliance with its obligations in terms of the contract is reviewed annually by the DCS. Reference is made to the DCS Confidential Inspection Report dated 2 April 2013 where the DCS confirmed compliance relating to food services, retention of food samples and meal times. A copy of an extract from that report is attached as annexure 2.19.1(B).<br><br>**1. Vegetables**<br>• Up to February 2014 one vegetable was served per serve, but since March 2014, inmates are served with two vegetables per serve once a day.<br><br>**2. Size of portions**<br>• The DCS alleges in paragraph 2.19.2 that portions are given to inmates that are smaller than portions stipulated in the DCS Policy.<br>➢ The Contractor is not obliged to comply with the DCS Policy. The Contractor fully complies with the Conditions of Contract and the Correctional Services Act.<br>➢ The portions which are served to its inmates are consistent with those stipulated in its nutritional plan.<br><br>**3. Meat** | our budgetary constraints, and that satisfy DCS's preferences.<br>• The Contractor requests a copy of the Procedure Manual Nutritional Services which appears to be the standard used by DCS. The Contractor will reconsider the current menus in view of requirements of the Manual and will consider the contractual implications of such changes.<br>• In addition, the Contractor proposes the appointment by the DCS of its own dietician to audit the menu and nutrition at MCC. |

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| | | | • The Contractor's menu for the period 14 June to 25 June 2014, attached hereto as annexure 2.19.3(A) evidences the fact that meat in the form of cooked chicken, fish, wors and beef is served.<br>• In addition, the Contractor has numerous purchase orders in its possession reflecting the purchase of meat for the MCC and these are available for inspection on reasonable notice.<br><br>**4. Fruit**<br>• As mentioned above, although the provision of fruits as part of the diet is required in terms of Regulation 4(2) of the Correctional Services Act, there is no stipulation as to the frequency of the provision of fruit to inmates during a cycle.<br>• Up until December 2013, the nutritional plan provided for one fruit to be given per cycle, but in addition to this, a helping of peanuts or instant maize would also be given within that cycle as a supplement.<br>• Since January 2014, the additional helping of peanuts and/or instant maize has been abandoned and a second fruit is given in a cycle.<br><br>**5. Suitable utensils**<br>• In paragraph 2.19.5, the DCS alleges that inmates are not provided with suitable eating utensils.<br>• Inmates are provided with a plastic spoon which, in the opinion of the Contractor eliminates the risk of the eating utensils being converted into weapons.<br>• The Contractor's compliance with its contractual obligations has been confirmed by the DCS in its Confidential Inspection Report dated 2 April 2013 and an extract thereof is attached as 2.19.1(8).<br>• Photographs of the spoon used by inmates are attached as annexure 2.19.5(A).<br><br>**6. Prisoner assistant caterers training**<br>• Prisoner assistant caterers are trained by the Food Hospitality and Tourism Academy trading as Hospitality Academy. The Hospitality | |

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| | | | Academy is accredited by CATHSSETA (The Culture Art Tourism Hospitality Sports Sectors of Education Training Authority) to offer skills programmes to kitchen cleaners, assistant chefs', food service attendants, convenience food cooks and others, as well as to offer qualifications in the form of a national certificate in professional cookery to its students. This is evidenced in the attached confirmation by THETA which is attached as annexure 2.19.6(A) as well as the letter from the Hospitality Academy dated 20 June 2014 attached as annexure 2.19.6(B).<br>• Copies of the programme tables in respect of professional cookery and assistant chefs' are also attached as annexures 2.19.6(C) and 2.19.6(D).<br>• In compliance with Clause 3.24.1 of Schedule D of the Conditions of Contract, qualifications bestowed upon prisoner assistant caterers by the Hospitality Academy would provide them with accreditation for future qualifications at an external institution | |