

# PROFESSIONAL SERVICES CONTRACT

By and Between  
GOVERNMENT OF THE VIRGIN ISLANDS  
DEPARTMENT OF PROPERTY AND PROCUREMENT  
On Behalf of  
DEPARTMENT OF HEALTH  
DIVISION OF MENTAL HEALTH, ALCOHOLISM & DRUG DEPENDENCY SERVICES  
And  
CORRECT CARE OF SOUTH CAROLINA, LLC

THIS AGREEMENT is made this 26 day of April, 2019, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Property and Procurement, on behalf of the Virgin Islands Department of Health, Division of Mental Health, Alcoholism & Drug Dependency Services (hereinafter referred to as "**Government**") and Correct Care of South Carolina, LLC, 7901 Farrow Road, Columbia, South Carolina 29203-3220 (hereinafter referred to as "**Contractor**").

## WITNESSETH:

**WHEREAS**, the Government is in need of the services of Contractor to provide mental health intermediate and long-term treatment for seriously ill mental health patients (hereinafter, "patient" or "client"), which duties and responsibilities are more particularly described in Addendum I (Scope of Services) attached hereto; and

**WHEREAS**, the Government solicited the services under RFP No. 007-2018(P); and

**WHEREAS**, the Contractor represents that it is willing and capable of providing such services; and

**NOW THEREFORE**, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

### 1. SERVICES

The Contractor will provide the services described in Addendum I (Scope of Services) attached hereto and made a part of this Contract.

### 2. TERM

This Contract shall commence upon the execution by the Governor of the US Virgin Islands and shall terminate one (1) year thereafter. This Contract may be renewed for one (1) additional year at the sole discretion of the Government. The compensation during this renewal period shall increase in accordance with the Consumer Price Index ("CPI") as established by the US Department of Labor Bureau Statistics for All Items, All Urban Consumers, however, no compensation shall be increased more than 3% over the preceding year. Any such renewal

or extension shall be contingent upon the satisfactory performance of the Contractor and shall be subject to the availability and appropriation of funds. The Government shall give written notice to the Contractor of such extension and/or renewal not less than sixty (60) days prior to the expiration of this Contract.

### 3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services), agrees to pay Contractor a sum not to exceed Two Million Four Hundred Seventy-One Thousand Four Hundred Fifteen Dollars and Zero Cents (\$2,471,415.00) in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this Contract as follows:

1. A per diem rate of **Four Hundred Fifteen Dollars and Zero Cents (\$415.00)** per patient, for two (2) patients identified as K.R. and G.L. for a total of **Three Hundred Two Thousand Nine Hundred Fifty Dollars and Zero Cents (\$302,950.00) per annum.**
2. A per diem rate of **Four Hundred Fifty-Seven Dollars and Zero Cents (\$457.00)** per patient for up to thirteen (13) additional transferred patients, subject to the Contractor's availability of beds, for a total of **Two Million One Hundred Sixty-Eight Thousand, Four Hundred Sixty-Five Thousand, Four Hundred Sixty-Five Dollars and Zero Cents (\$2,168,465.00) per annum.**

**Grand Total:**

**\$302,950.00: Two Patients**  
**\$2,168,465.00: Thirteen Patients**  
**\$2,471,415.00: Fifteen Patients**

### 4. TRAVEL EXPENSES

Inclusive of the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing, in advance, by the Government. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this Contract, however, said costs and expenses shall not exceed    N/A    (**NOT APPLICABLE**).

### 5. RECORDS

The Contractor when applicable, will present documented precise records of time and/or money expended under this Contract.

Contractor, including its employees and subcontractors, shall maintain all books, documents, papers, medical and mental health records, and all other patient records which

a mental health facility is required to make and keep, and bring to the attention of the Government. Such records shall be kept in each patient's file and turned over to the Government at the expiration of this Contract. Contractor may keep copies of said records as may be necessary to resolve any matters which may be pending. Upon resolution of the matter, those copied records may be destroyed by Contractor. Notwithstanding the foregoing, Government will not have any rights to inspect or copy Contractor's non-public financial records or proprietary information.

## **6. PROFESSIONAL STANDARDS**

The Contractor agrees to maintain the professional standards applicable to its profession and to consultants in the conduct of performing the services described in Addendum I and in accordance with the laws of South Carolina.

## **7. DOCUMENTS, PRINTOUTS, ETC.**

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom and pertaining to this Contract shall become the property of the Government and shall be turned over to it at the termination of this Contract. The above described materials shall not be used by Contractor or by any other person or entity except upon the written permission of the Government.

## **8. LIABILITY OF OTHERS**

Nothing in this Contract shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by Contractor as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms associations, or corporations for the acts, omissions, liabilities, obligations and taxes of Contractor of whatsoever nature, including but not limited to unemployment insurance and social security taxes for Contractor, its servants, agents or independent contractors.

## **9. ASSIGNMENT**

Except for ancillary providers of goods and services customarily provided to Contractor by third party contractors, the Contractor shall not subcontract or assign any part of the services under this Contract without the prior written consent of the Government.

## **10. INDEMNIFICATION**

Contractor agrees to indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expense (including attorney's fees) and causes of action of whatsoever character which Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by Contractor under this Contract and arising from any cause, except the sole negligence of Government.

Written notice from the Government of any claim, incident or lawsuit arising out of or in any way connected to the services to be performed by the Contractor under this Contract shall serve as notice that the indemnification herein has been triggered and that the Contractor shall take all necessary steps to promptly defend and protect the Government from any indemnified claim.

## **11. SEVERABILITY**

Should any portion of this Contract be judicially determined to be illegal or unenforceable, the remainder of the Contract shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.

## **12. TAXES**

Contractor shall pay all applicable taxes and other such amounts required by federal, state and local law, including but not limited to federal and social security taxes, workers' compensation, unemployment insurance and sales taxes.

## **13. INSURANCE**

(a) Contractor agrees to procure and provide evidence of the following insurance policies in the amount and with the type of coverage shown below.

- (1) Worker's Compensation Insurance in accordance with the requirements for the State of South Carolina.
- (2) Commercial General Liability insurance on a "Per Occurrence Basis" with limits of liability not less than \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate.
- (3) Motor Vehicle Liability, including No-Fault coverage, with limits of liability not less than \$1,000,000.00 per occurrence. Coverage shall include all non-owned vehicles and, all hired vehicles. Also, to include uninsured/underinsured motorists coverage in the minimum amount of \$100,000.00 when there are owned vehicles.
- (4) Professional Liability insurance in a form acceptable to the Government with a limit of liability of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate.

(b) The Government is to be notified immediately if any aggregate insurance limit is exceeded. Additional coverage must be purchased to meet requirements.

(c) Contractor warrants that during the term of the Contract it shall comply with the above-listed insurance requirements and maintain the above-listed insurance

policies in the amounts and type of coverage indicated. The Government acknowledges that any AAA rated insurance carrier will be acceptable.

- (d) This Contract is subject to Contractor providing the Government with a Certificate of Insurance evidencing the Commercial General Liability, Motor Vehicle Liability, and Professional Liability insurance coverage described above. Said Certificate of Insurance shall identify Government as the Additional Insured on the Commercial General Liability (CGL) and on the Auto Liability by endorsement.
- (e) Evidence of insurance documenting the required coverage under this Contract, including waiver of transfer rights of recovery against others, waiver of Contractor's right to recover from others for workers' compensation, shall be provided to the Government prior to the commencement of services under this Contract. If the insurance is on a claims-made basis and evidence of an extended reporting endorsement is not provided prior to the commencement of services, all payments under this contract shall be withheld until evidence of the extended reporting endorsement is provided to the Government.
- (f) If, during the performance period of this Contract, Contractor changes insurance providers, the Contractor must provide evidence that the Government will be indemnified to the limits specified in paragraph (a) of this Section, for the entire period of the contract, either under the new policy, or a combination of old and new policies.
- (g) Contractor agrees to waive all rights of subrogation against the Government, its boards, agencies, departments, officers, employees, agents and volunteers for losses arising from work performed by Contractor under the terms of this Contract.
- (h) Policies will not be canceled, not renewed or reduced in scope of coverage unless sixty (60) days written notice has been given to the Government. Notwithstanding Contractor shall at all times comply with the insurance limits outlined in this Agreement.
- (i) If the Professional Liability coverage is "claims made," Contractor must, for a period of three (3) years after the date when contract is terminated, completed or not renewed, maintain insurance with a retroactive date that is on or before the start date of contract services or purchase an extended reporting period endorsement (tail coverage). The Government may withhold final payments due until satisfactory evidence of the tail coverage is provided by Contractor to the Government.

#### 14. INDEPENDENT CONTRACTOR

The Contractor shall perform this Contract as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

**15. GOVERNING LAW**

This Contract shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

**16. WAIVERS AND AMENDMENTS**

No waiver, modification or amendment of any term condition or provision of this Contract shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this Contract, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

**17. ENTIRE AGREEMENT**

This agreement constitutes the entire agreement of the parties relating to the subject matter addressed in this agreement. This agreement supersedes all prior communications, contracts, or agreements between the parties with respect to the subject matter addressed in this Agreement, whether written or oral.

**18. RIGHT TO WITHHOLD**

If work under this Contract is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to Contractor, such sums as Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while Contractor gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contest is not successful.

**19. CONDITION PRECEDENT**

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Governor.

## 20. TERMINATION

Either party will have the right to terminate this Contract with or without cause on Thirty (30) days written notice to the other party specifying the date of termination.

After giving of notice of termination Contractor shall:

(a) Continue to provide the same level of service as previously required under the terms of this Contract until the date of termination.

(b) If appropriate, assist the Government in affecting the transfer of patients in a manner consistent with the best interest of the patients' welfare.

### Obligations of Contractor Upon Termination:

i. Except as provided in paragraph (ii) of this Section, upon termination of this Agreement for any reason, Contractor shall return or destroy all Protected Health Information received from Government, or created, maintained or received by Contractor on behalf of Government. This provision shall apply to Protected Health Information that is in the possession of Subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information.

ii. In the event that Contractor determines that returning or destroying the Protected Health Information is infeasible, Contractor shall provide to Government notification of the conditions that make return or destruction infeasible. If such return or destruction of Protected Health Information is not feasible, Contractor shall extend the protections of this Agreement to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protected Health Information. To the extent it later becomes feasible to return or destroy such Protected Health Information, Contractor shall do so in accordance with paragraph (i) of this Section.

iii. The rights and obligations under this Section shall survive the termination of this Agreement.

## 21. PARTIAL TERMINATION

The performance of work under this Contract may be terminated by the Government, in part, whenever the Government shall deem such termination advisable by providing thirty (30) days written notice to the Contractor. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the Thirty (30) days notice.

## **22. NON-DISCRIMINATION**

No person shall be excluded from participating in, be denied the proceeds of or be subject to discrimination in the performance of this Contract on account of race, creed, color, sex, religion, disability or national origin.

## **23. CONFLICT OF INTEREST**

(a) Contractor covenants that it has no interest and will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.

(b) Contractor further covenants that it is:

(1) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature, or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); or

(2) a territorial officer or employee and, as such, has:

(i) familiarized itself with the provisions of Title 3, Chapter 37 of the Virgin Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in section 1108 thereof;

(ii) not made, negotiated or influenced this Contract, in its official capacity;

(iii) no financial interest in the Contract as that term is defined in section 1101(1) of said Code chapter.

## **24. EFFECTIVE DATE**

The effective date of this Contract shall be the day of execution of the Contract by the Governor.



## 25. NOTICE

Any notice required to be given by the Terms of this Contract shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

### **Government**

Anthony D. Thomas, MBA  
Commissioner Nominee  
Virgin Islands Department of Property and Procurement  
8201 Sub Base, Suite 4  
St. Thomas, U.S. Virgin Islands 00802

Justa E. Encarnacion, RN, BSN, MBA/HCM  
Commissioner Nominee  
Virgin Islands Department of Health  
1303 Hospital Ground, Suite 10  
St. Thomas, U.S. Virgin Islands 00802

### **Contractor**

Ronald Lawrenz  
Facility Administrator  
Correct Care of South Carolina, LLC  
7901 Farrow Road  
Columbia, South Carolina, 29203-3220

## 26. LICENSURE

The Contractor covenants that it has obtained all of the applicable licenses or permits, temporary or otherwise, as required by federal, state, and county laws and regulations to perform under this Contract.

## 27. OTHER PROVISIONS

Addendum I and II attached hereto are a part of this Contract and are incorporated herein by reference.

## 28. DEBARMENT CERTIFICATION

By execution of this contract, the Contractor certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The Contractor shall include this provision in each of its subcontracts hereunder and shall furnish its

subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON PROCUREMENT". In the event the Contractor or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the Contractor or subcontractor agrees that it shall not be entitled to payment for any work performed under this contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

## 29. FALSE CLAIMS

Contractor warrants that it shall not, with respect to this Contract, make or present any claim upon or against the Government of the Virgin Islands, or any officer department, board, commission, or other agency thereof, knowing such claims to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

## 30. NOTICE OF FEDERAL FUNDING

Contractor acknowledges that this Contract is funded, in whole or in part, by federal funds. Contractor warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious, or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is a federal offence.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands on the day and year first above written.

### WITNESSES:

Celia Schaefer  
Abdul Henry

Frank L. Davis  
Hazelanne A. Homan

Mike Cui  
Steve White

### GOVERNMENT OF THE VIRGIN ISLANDS

Justa Encarnacion, RN, BSN, MBA/HCM 4/24/19  
Date  
Commissioner Nominee  
Virgin Islands Department of Health

Anthony D. Thomas, MBA 4-24-19  
Date  
Commissioner Nominee  
Virgin Islands Department of Property and Procurement

### CONTRACTOR

Jeremy Barr 4-16-2019  
Date  
Senior Vice President  
Correct Care of South Carolina, LLC  
(Corporate seal, if Contractor is a corporation)

APPROVED:

  
**Honorable Albert Bryan Jr.**  
GOVERNOR OF THE VIRGIN ISLANDS

Date: 4/26/19

APPROVED AS TO LEGAL SUFFICIENCY  
DEPARTMENT OF JUSTICE

BY:   
AAG Date 4/25/19

\_\_\_\_\_  
PURCHASE ORDER NO.

CERTIFICATE OF APPROVAL

I hereby certify that this is a true and exact copy of  
Contract No. \_\_\_\_\_ entered into between the  
Department of Property and Procurement on behalf of  
Department of Health, Division of Mental Health,  
Alcoholism & Drug Dependency and  
Correct Care of South Carolina, LLC.

\_\_\_\_\_  
**Anthony D. Thomas, MBA**  
**Commissioner Nominee**  
Department of Property and Procurement

REC'D PROPERTY&PROCUR  
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