

**MENTAL HEALTH SERVICES, SUBSTANCE ABUSE TREATMENT,
SEX OFFENDER TREATMENT AND DUI PROGRAMMING
SERVICES CONTRACT**

This Contract, a professional services Contract under the law of the State of Delaware, is made this 7th day of June, 2012, by and between Connections Community Support Programs, Incorporated (hereafter "CCSP") and the State of Delaware Department of Correction ("DOC") (collectively referred to as the "Parties").

RECITALS

WHEREAS, DOC desires to procure professional Mental Health Services, Substance Abuse Treatment, Sex Offender Treatment and DUI Programming services to serve the needs of the State of Delaware and its incarcerated offender population; and

WHEREAS, DOC has asked prospective vendors to submit proposals in relation to Contract No. DOC-1202Mental; and

WHEREAS, CCSP submitted a proposal to provide identified services and such proposal was accepted by DOC.

NOW, THEREFORE, in consideration for the mutual promises contained herein, the parties enter into this Contract and each of the documents that comprise this Contract as specifically incorporated by reference herein and revoke any previous Contracts between the parties. All references to the "State", "Delaware", "DDOC", or the "Department of Correction" shall be deemed as references to DOC. All references to CCSP shall be deemed as a reference to Connections Community Support Programs, Inc. The terms and conditions of this Contract are contained within this DOC/CCSP professional healthcare services Contract which shall include by reference the following documents:

- This Contract and its Exhibits;
- DOC's Request for Proposals for Contract No. DOC-1202Mental and any amendments thereto (Exhibit A);
- CCSP's Letter of May 24, 2012 (Exhibit B);
- CCSP's Proposal (Exhibit C).

NOW THEREFORE, DOC and CCSP mutually agree as follows:

- 1. Contract Term.** Subject to the other terms and provisions hereof, the initial term of this Contract will be for two (2) years commencing on July 1, 2012 (the "commencement date") and shall terminate, unless renewed, on June 30, 2014 (the "natural termination date"). The Contract may be renewed by DOC for two (2) additional one (1) year renewal periods.
- 2. Contract Price.** The Parties agree on an Annual Base Price of \$11,999,980.00. CCSP shall submit to DOC an invoice on or about the 1st day of each month commencing on August 1, 2012. Each invoice shall be for one twelfth (1/12) of the Annual Base Price due hereunder for each year (\$999,998.33) of this Contract. DOC shall pay each invoice within 30 days of receipt. The amount of said monthly payment shall be subject to modification only as set forth in this Contract or as mutually agreed upon by the parties pursuant to a subsequent mutually-signed writing. Adjustments to compensation may occur only as set forth in this Contract, its exhibits, or attachments. The budget provided by CCSP in the letter of May 24, 2012, and approved by DOC, includes a 2 percent increase to the contract effective on July 1, 2013, not to exceed \$12,239,980. Invoices shall be submitted in electronic format to:

John Oldigs
Senior Fiscal Administrative Officer
245 McKee Rd.
Dover, DE 19904
john.oldigs@state.de.us

A. Variable Cost Fluctuations. The payments set forth above, anticipate a combined average daily inmate population of 6,600 ("ADP"). In the event the ADP fluctuates greater or lower than anticipated above, the following adjustments to the Base Compensation shall be made as follows:

If the ADP for any quarter under the term of this Contract is less than 5,940, a decrease in the amount due to CCSP shall be calculated as follows: $(5,940 - \text{ADP}) \times (\$4.98) \times (\text{Number of days in quarter})$. This amount will be deducted from the invoice payment to CCSP over the next three consecutive months in equal amounts for the three months immediately following the quarterly determination, and such invoices shall specifically set forth the calculation of such deduction. If the ADP for the quarter exceeds 7,260, an increase in the amount due to CCSP shall be calculated as follows: $(\text{ADP} - 7,260) \times (\$4.98) \times (\text{Number of days in quarter})$. This amount will be paid separately to CCSP on or before 30 days after receipt of an invoice from CCSP for such per diem increases, and such invoice shall specifically set forth the calculation of such increase.

ADP as stated above shall be determined from the DOC records and calculated and adjusted as set forth in this paragraph. The ADP shall be calculated by adding, for a given month the daily offender population contained in the DOC's daily status reports and dividing such sum by the number of days in the month.

3. Superseding Modifications. Notwithstanding any other provision of this Contract or its Exhibits, the Parties Agree to the following terms and conditions:

A. CCSP agrees to make its best efforts to fully utilize all available treatment beds available within DOC's facilities. The adjustments to compensation for failure to use all available treatment beds are shown in the table below.

| | | |
|---|---------|--------------|
| Costs Allocated to Substance Abuse | | \$ 5,159,991 |
| Fill Rate | | |
| Deductions | | |
| Monthly Payment | | |
| 1/12 amount for 91-100% of beds filled (1,081 to 1,188) | 0 | 429,999 |
| 10% reduction for 81-90% of beds filled (962 to 1,080) | 43,000 | 386,999 |
| 20% reduction for 71-80% of beds filled (843 to 961) | 86,000 | 343,999 |
| 30% reduction for 61-70% of beds filled (725 to 842) | 129,000 | 300,999 |
| 40% reduction for 60% or below of beds filled (below 724) | 172,000 | 258,000 |

B. The Parties agree that DOC will conduct audits as detailed in the Quality Assurance Matrix, attached hereto as Exhibit D. Under no circumstances shall DOC utilize data or information for such purposes which may be generated by CCSP in relation to any of its internal peer review functions. In the event that CCSP fails to achieve a compliance goal, CCSP shall submit a Corrective Action Plan to DOC for its approval within 5 business days of CCSP's receipt of the failure rating.

C. DOC agrees to defer any adjustment to compensation related to or occasioned by the Bed Utilization, Performance Measures, and Mandatory Staffing Level Enforcement process until January 31, 2013.

D. Adjustments to compensation based on Bed Utilization and Mandatory Staffing Level Enforcement shall not be subject to any cure period.

E. CCSP agrees that it shall be responsible for any and all charges related to telephone and data transmission lines set aside specifically for the use of CCSP. DOC agrees to timely provide CCSP with the invoices it receives for such services in order to facilitate prompt payment.

F. Mandatory Staffing Level Enforcement. The positions and hours to be provided as part of the Contract between the DOC and CCSP as set forth in Exhibit E, attached hereto, are mandatory minimum staffing levels and compliance with the staffing levels is a material term of this Contract. The following subparagraphs govern the enforcement of mandatory staffing levels under this Contract. Nothing herein shall be considered an election of remedies nor shall it inhibit any other statutory or common law action or remedy available to the Parties which might arise out of the operation of this Contract.

I. Credit for Non-Compliance. The Department and CCSP agree that a monetary credit as defined and quantified herein will be imposed by the Department for net unfilled/uncovered hours. Adjustments to compensation for non-compliance with the requirements of Exhibit E shall be as set forth in the table below:

| | | |
|--|-------------------|------------------------|
| Costs Allocated to Mental Health | | \$ 6,839,988 |
| | | |
| Fill Rate | Deductions | Monthly Payment |
| 1/12 amount @ 91-100% of positions filled (174 to 191) | 0 | 569,999 |
| 10% reduction for 81-90% of positions filled (155 to 173) | 57,000 | 512,999 |
| 20% reduction for 71-80% of positions filled (136 to 154) | 114,000 | 455,999 |
| 30% reduction for 61-70% of positions filled (117 to 135) | 171,000 | 398,999 |
| 40% reduction for 60% or below of positions filled (below 117) | 228,000 | 341,999 |

2. Definitions.

2.1 “Unfilled/uncovered hours” shall be defined as those hours which CCSP failed to cover with an appropriately licensed and credentialed employee or contractor due to voluntary or involuntary termination or any other reason or incident resulting in the position being unfilled and not covered. The term “unfilled/uncovered hours” does not include those hours not covered due to training, orientation and paid time off, such as for illness, annual or personal leave or any other paid leave provided pursuant to the approved employment policies of CCSP. Notwithstanding the language of this paragraph, a position shall be deemed uncovered if a permanent employee of CCSP fails to cover the position for a period of greater than 90 consecutive days.

2.2 A full time equivalent (FTE) will be defined as 2,080 hours annually, inclusive of paid time off.

2.3 For purposes of calculating monthly contractual hours required, the calculation will utilize eight hours per work day, multiplied by the number of business days in the month, inclusive of holidays, so that the combination of any calendar year will reflect 2,080 hours (except for leap years which will calculate as 2,088 hours).

3. Written Report Required. CCSP will provide a certified monthly written report of the work hours paid each month indexed by amount of hourly rate, position, and facility. The report required herein will compare the work hours paid each month

to the requirements of Exhibit E. The average hourly rate for any uncovered/unfilled hours in excess of the requirements of Exhibit E will be specified in each report required herein. The monthly calculation will be completed for the previous service month and aggregated for the entire contract year. These figures shall be reported in each report as the "cumulative monthly staffing level credit" and the "cumulative yearly staffing level credit." CCSP will credit the Department on a monthly basis for the amount of each cumulative monthly staffing level credit, net of previous credits and billings issued. At no time will the Department be charged with a total net overage for hours provided – any cumulative staff hours provided beyond the staffing levels required by this Contract will be at the expense of the Contractor. Overages in any given month may not be combined or calculated in a manner which offsets uncovered/unfilled hours. If, however, the Department requests additional staff, the Department agrees to negotiate an amendment to the contract to account for the expansion of any newly demanded positions.

4. Time Considerations. CCSP will submit the report required by subparagraph 1.3 above no later than 30 days after the month of service in a manner which shall permit the Department to deduct any potential credit from the next required payment. Reports may be submitted electronically. In the event that an amount is owed to CCSP based upon previous assessed credits, the Department will remit such additional funds at the time of the next required payment. Because of the potential for corrections to timesheets, as well as the possibility of invoices received later than 30 days past the month of service, agreed upon adjustments to the prior

month of hours paid may be processed for the next two monthly reports following the notice of any need for such adjustments. For example, services provided in July will be reported by the end of August. Corrections to the July hours paid will be allowed at the end of September and the end of October, to reflect the true total of hours paid by position.

4. Major Equipment Purchases. The parties acknowledge that DOC shall pay for any equipment which may be necessary, required and requested by CCSP under the operation of this Contract which individually exceeds \$500.00 per individual item. All equipment, supplies, and fixtures currently in place at or located within the facilities at which services shall be provided shall be made available to CCSP at no cost to or credit against CCSP in connection with the performance of its services hereunder. In addition, DOC shall provide at its cost and expense all reasonable maintenance services required and requested by CCSP in connection with any equipment or any part of the facilities.

5. Adequate Performance Defined. The parties acknowledge and agree that minimally adequate performance under this Contract requires both a minimum level of staffing, adequate provision of identified services, and the required utilization of therapeutic bed space. The adequacy of these services and overall Contract performance shall be measured by CCSP's performance in relation to the Bed Utilization, Performance Measures, and the Mandatory Staffing Level Enforcement metrics as set forth herein at Exhibit E, adherence to NCCHC standards, and the policies of the DOC's Bureau of Correctional Healthcare Services. The Parties agree that required staffing levels, audit performance, required bed

utilization, the maintenance of NCCHC accreditation, and adherence to the policies of the DOC's Bureau of Correctional Healthcare Services are each material terms of this Contract.

6. *Legal Requirements.* CCSP shall maintain all legally required licenses, certifications, insurance coverages, as well as the performance bond required herein, as not otherwise stated by this Contract, during the entire term of this Contract.

7. *Expense of Performance.* Unless provided otherwise in this Contract, all expenses incurred in the performance of the services are to be paid by CCSP. If this Contract specifically provides for expense reimbursement, CCSP shall be reimbursed only for reasonable expenses incurred by CCSP in the performance of the services.

8. *State Sovereignty.* Delaware is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Contract.

9. *Acceptance; Non-Waiver.* Permitted or required approval by Delaware of any services furnished by CCSP shall not in any way relieve CCSP of responsibility for the professional and technical accuracy and adequacy of its work. DOC's review, approval, acceptance, or payment for any of CCSP's services herein shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and CCSP shall be and remain liable in accordance with the terms of this Contract and applicable law for all damages to Delaware caused by CCSP's performance or failure to perform under this Contract.

10. **Reservation of Rights.** The rights and remedies of Delaware provided for in this Contract are in addition to any other rights and remedies provided by law.

11. **Confidentiality.** To the extent permissible under federal law and 29 *Del. C.* § 10001, *et seq.*, the parties to this Contract shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Contract.

12. **Independent Contractor; Employment Decisions.** CCSP has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by CCSP in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor DOC's request relating to specific individuals.

13. **Independent Contractor; Generally.** It is understood that in the performance of the services herein provided for, CCSP shall be, and is, an independent Contractor, and is not an agent or employee of Delaware and shall furnish such services in its own manner and method except as required by this Contract. CCSP shall be solely responsible for, and shall indemnify, defend and save Delaware harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever. CCSP acknowledges that CCSP and any subcontractors, agents or employees employed by CCSP shall not, under any circumstances, be considered employees of Delaware, and that they shall not be entitled to any of the benefits or rights afforded employees of Delaware, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System

benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. Delaware will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of Delaware or any of its officers, employees or other agents. CCSP shall be responsible for providing necessary liability insurance for itself and its personnel. As an independent contractor, CCSP has no authority to bind or commit Delaware. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

14. *Multi-Source Vendor Cooperation Essential.* The State of Delaware has chosen to employ a multi-source solution to the provision of offender healthcare services. CCSP has been selected to provide a vital, critical, and essential portion of the total healthcare services to be provided to the State of Delaware's incarcerated population. In addition to CCSP, other vendors have been selected to provide other critical healthcare functions. Communication and cooperation between such vendors, including CCSP, is absolutely essential and of the highest order of materiality. CCSP agrees and warrants that it shall provide absolute cooperation with any other healthcare services vendor providing services to DOC and the State of Delaware offender population. The failure to provide reasonable and appropriate cooperation as indicated herein shall be considered a material breach of this Contract.

15. *Severability.* If any term or provision of this Contract is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Contract, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and

enforced accordingly, preserving to the fullest permissible extent the intent and Contracts of the parties herein set forth.

16. *State Appropriations Mandatory Condition of State Performance.* Validity and enforcement of this Contract is subject to appropriations by the General Assembly of the State of Delaware of the specific funds necessary for Contract performance. Should such funds not be so appropriated Delaware may immediately terminate this Contract, and absent such action this Contract shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. Notwithstanding any other provisions of this Contract, this Contract shall terminate and Delaware's obligations under it shall be extinguished at the end of the fiscal year in which Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

17. *Termination for Cause.* If for any reason, or through any cause, the Vendor fails to fulfil in timely and proper manner its obligations under the Contract, or if the Vendor violates any of the covenants, Contract or stipulations of the Contract, the DOC shall thereupon have the right to terminate the Contract by giving written notice to the Vendor of such failure and demand that such failure be cured within 30 days. If such obligations, covenants, Contracts or stipulations are not cured to the satisfaction of DOC within 30 days from the date of the notice, DOC may terminate the Contract with the Vendor by providing a termination date no shorter than 30 days from the date the Vendor's failure to cure. In that event, all finished or unfinished documents, charts, data, studies, surveys, drawings, maps, models, photographs

and reports or other material prepared by the Vendor under the Contract shall, at the option of the DOC, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is useable to the DOC. In the event of a termination for cause, CCSP agrees that it will not be entitled to any compensation, whether equitable or monetary, related to any unexecuted portion of this Contract.

18. *Termination for Convenience.* Either party may terminate the Contract at any time by giving written notice of such termination and specifying the effective date thereof, at least 120 days before the effective date of such termination. In that event, all finished or unfinished documents, charts, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Vendor under the Contract shall, at the option of the DOC, become its property, and the Vendor shall be entitled to compensation for any satisfactory work completed on such documents and other materials which is useable to the DOC. If the Contract is terminated by the DOC as so provided, the Vendor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Vendor as covered by the Contract, less payments of compensation previously made. Provided however, that if less than 60 percent of the services covered by the Contract have been performed upon the effective date of termination, the Vendor shall be reimbursed (in addition to the above payment) for that portion of actual out of pocket expenses (not otherwise reimbursed under the Contract) incurred by the Vendor during the Contract period which are directly attributable to the uncompleted portion of the services covered by the Contract. In the event of a termination for convenience, CCSP agrees

that it will not be entitled to any compensation, whether equitable or monetary, related to any unexecuted portion of this Contract.

19. *Non-Waiver.* The delay or failure by either party to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

20. *Public Records; DOC's Right to Inspect.* CCSP shall maintain all public records, as defined by 29 *Del. C.* § 502, relating to this Contract and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.* Ch. 5. During the term of this Contract, authorized representatives of Delaware may inspect or audit CCSP's performance and records pertaining to this Contract at the CCSP business office during normal business hours.

21. *Proof of Insurance.* Before any work is done pursuant to this Contract, the Certificate of Insurance and/or copies of the insurance policies, referencing the Contract number stated herein, shall be filed with the State. The certificate holder is as follows: Delaware Department of Correction. In no event shall the State of Delaware be named as an additional insured on any policy required under this Contract. CCSP warrants that the amounts of insurance required by this Contract will remain in full force and effect during the full term of this Contract without lapse or diminution of required coverage limitations.

22. *Choice of Law and Venue.* The laws of the State of Delaware shall apply, except where federal law has precedence. CCSP consents to jurisdiction and venue within the State of Delaware. CCSP must remain in good financial standing with the State of Delaware.

23. Contract Contents; Documents and Order of Authority. The following documents contain the essential and material terms of the Contract between DOC and CCSP:

- 1) This Contract and Exhibits D and E hereto;
- 2) The DOC Request for Proposals for Contract No. DOC-1202Mental and any amendments thereto (Exhibit A);
- 3) CCSP's Letter of May 24, 2012 (Exhibit B);
- 4) CCSP's Proposal (Exhibit C).

In the event of a conflict, contradiction, vagueness and/or ambiguity with respect to or in relation to the contents of the above listed numerical order shall dictate and control the terms of this Contract such that the authority of each successive document is controlled by the preceding document, with this Contract containing the highest level of authority.

24. Entire Agreement; Interpretation; Modification. This Contract and its Exhibits and Appendices shall constitute the entire Contract between DOC and CCSP with respect to the subject matter of this Contract and shall not be modified or changed without the express written consent of the parties. The provisions of this Contract supersede all prior oral and written quotations, communications, Contracts and understandings of the parties with respect to the subject matter of this Contract. If the scope of any provision of this Contract is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified and that the whole of such provisions of the Contract shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law. No waiver of any provision of this Contract shall be

effective unless it is in writing and signed by the party against which it is sought to be enforced.

25. *Joint Drafters.* This Contract was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the plain and fair meaning thereof.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto as of the day and year first above written.

STATE OF DELAWARE,
DEPARTMENT OF CORRECTION

By: _____
Print Name: Charles Danberg
Title: Commissioner
Date: 6/14/12

CONNECTIONS COMMUNITY
SUPPORT PROGRAMS, INC.

By: _____
Print Name: Catherine Deramay McKay
Title: President & CEO
Date: 6/12/2012

DEPARTMENT OF CORRECTION
PURCHASING

By: _____
Print Name: Erika Martine-Duquette
Title: Purchasing Services Coordinator
Date: 6/14/12