

MASTER SERVICES AGREEMENT

START: START Treatment & Recovery Centers, Inc. (“START”), a New York not-for-profit corporation
Consultant:
Address:
Email:
Date:

START and Consultant are each referred to individually as the party, and collectively, as the parties. The term “will” is defined to mean “is/are required to”. Effective date of this Agreement is the date of last signature, below.

1. Engagement.

- (a) START hereby engages Consultant to perform the services (the “Services”) described in the Statement of Work (“SOW”) attached hereto as an Appendix, in accordance with the timeframes and milestones and in consideration of the fee(s) stated in the SOW, and Consultant accepts the engagement.
- (b) Any additional project agreed to by the parties from time to time will be set forth in an SOW which specifies the agreed-upon services, timeframes, milestones, and fees and which will become an integral part of this Master Services Agreement (“Agreement” or “MSA”). In the event of a conflict between the MSA and an SOW, the terms of the MSA will control.
- (c) Consultant will furnish START with the names and qualifications of its employees and subcontracted agents who will provide the Services (“Consultant Staffers”) and replace any Consultant Staffer whose conduct or performance START deems unsatisfactory.
- (d) Consultant will not engage any subcontractors to serve as a Consultant Staffer without first entering into a written agreement whereby the Consultant Staffer (i) assigns to Consultant his/her entire right, title and interest to all Deliverables (as defined below) and associated intellectual property rights (for subsequent assignment to START pursuant to Section 5(b)) and (ii) agrees to comply with Consultant’s obligations hereunder, including, without limitation, the confidentiality obligations set forth in Section 10 of this Agreement. The engagement of any Consultant Staffer will not relieve Consultant of any of its obligations under this Agreement or any SOW. Any breach by a Consultant Staffer of any terms or conditions of this Agreement or any SOW will be deemed a breach by Consultant of such terms and conditions.
- (e) If Consultant enters into subcontracts for the performance of work pursuant to this Agreement, Consultant will take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of START under this Agreement. No contractual relationship shall be deemed to exist between the subcontractor and the START.
- (f) All agreements between Consultant and subcontractors must be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of this Agreement, (2) that nothing contained in the subcontract shall impair the rights of START under this Agreement, and (3) that nothing contained in the subcontract, nor under this Agreement, will be deemed to create any contractual relationship between the subcontractor and START.

2. START Responsibilities. START will designate a liaison to monitor ongoing activities and provide Consultant with timely access to data, information and personnel necessary for Consultant to perform the Services. Except as otherwise set forth in any SOW, Consultant will furnish, at Consultant’s sole cost and expense, all materials and supplies necessary for completing the Services. Any materials and supplies furnished by START will remain at all times the property of START, which Consultant will return to START upon completion of the Services in good condition, reasonable wear and tear excepted.

3. Payment of Invoices. The SOW will specify the fee for the Services and milestones for payment. Unless otherwise specified in the SOW, invoices will be paid within forty-five (45) days of invoice receipt. Invoices must be sent to accountspayable@startny.org.

4. Term and Termination.

- (a) This Agreement will terminate upon the completion of the Services, provided, that either party may terminate this Agreement (or any SOW subsequently entered into) by giving written notice to the other party not less than thirty (30) days prior to the intended date of termination.

- (b) START may terminate this Agreement (and/or any SOW) immediately upon written notice to Consultant (a) if Consultant or Consultant Staffer has been suspended, disqualified, debarred, or otherwise excluded from or declared ineligible to bid or perform work for any governmental agency or otherwise prohibited from participation in any federal or state program, including Medicare or Medicaid (collectively, "Program"); (b) if Consultant or Consultant Staffer who will have regular and substantial contact with persons receiving services at START is included in the New York State Justice Center ("NYSJC") Staff Exclusion List ("SEL"); (c) if Consultant becomes insolvent or is subject to a bankruptcy, liquidation, receivership or similar proceeding for the benefit of creditors; or (d) any license required for Consultant to render the Services is revoked or suspended.
- (c) To the extent an SOW requires Deliverables (as defined below), Consultant will provide START with all Deliverables compiled, whether in whole or in part, up to the date of termination and START will pay Consultant, within thirty (30) days of receipt of the same, a pro-rata amount of the fee (if any, as set forth under the applicable SOW) allocable to the completed and partially completed Deliverables. Consultant expressly waives any right to additional or other amounts based on *quantum meruit*.

5. Deliverables; Assignment; Indemnification for Infringement.

- (a) All tangible items and work product generated by Consultant pursuant to this Agreement or any SOW, including, without limitation, computer software, firmware, layouts, designs, drawings, patterns, models, compositions, architectures, protocols, formulae, algorithms, processes, programs, methods, technology, devices, works of authorship, data, databases and data collections (collectively, "Deliverables"), will be the sole and exclusive property of START.
- (b) All intellectual property rights (including, without limitation, patents, copyrights, trade secrets, inventions, ideas, discoveries, developments, innovations, concepts and improvements) made or conceived by Consultant, solely or jointly, or in whole or in part, relating to the Deliverables or otherwise in connection with Consultant's performance under this Agreement or any SOW (collectively, "Assigned Works") will be considered a "work made for hire" within the meaning of the Copyright Act of 1976, as amended, by Consultant for START, and Consultant hereby transfers and assigns, and agrees to transfer and assign, to START all of Consultant's right, title and interest therein without further consideration. At START's request, Consultant will promptly deliver, execute, file, and record all documentation evidencing such assignments and deliver to START physical and electronic embodiments of each element of the Assigned Works, including the Deliverables.
- (c) As between START and Consultant, Consultant retains ownership of any inventions, ideas, discoveries, developments, innovations, concepts, software, and devices that Consultant owned and developed prior to the effective date of this Agreement, to the extent the same was not developed or created by Consultant for START or any of its affiliates (collectively "Consultant Property"). If any Consultant Property is embodied in or used in connection with any Deliverable or Assigned Work, Consultant hereby grants, and agrees to grant, to START a royalty-free, paid-up, non-exclusive, perpetual, irrevocable license to use such Consultant Property for all purposes in connection with START's use of such Deliverable or Assigned Work.
- (d) Consultant will defend, indemnify, and hold harmless START from any action or other proceeding brought against START (including, without limitation, actions by Consultant Staffers) which alleges use of a Deliverable infringes any patent or copyright or constitutes unauthorized use of a trade secret. If the Deliverables or any portion thereof become or are likely to become the subject of an infringement claim or are found by a final, non-appealable order of a court of competent jurisdiction to be an infringement or unauthorized use of a trade secret, then Consultant may, at its option and expense, (i) secure for START the right to continue the use of such infringing item, or (ii) replace or modify such Deliverable so it becomes non-infringing, provided that such replacement or modification is capable of performing substantially the same function. If Consultant is unable to perform either option, then START will return the Deliverable to Consultant and Consultant will refund to START the amount paid by START to Consultant for such item, provided that the foregoing will not be construed to limit Consultant's indemnification obligation set forth herein.

6. Warranties

- (a) *Services Warranty.* Consultant warrants that it will perform the Services in good faith and in a competent and efficient manner, and in compliance with all applicable laws, rules, and regulations.
- (b) *Software Warranty.* To the extent an SOW requires the delivery and/or implementation of software applications, Consultant warrants that the software (i) will be accompanied by the source code and, at the time of delivery, will be free of all viruses, time bombs, Trojan horses, or other malicious code and (ii) will conform with START's specifications and intended use. In the event of non-conformance with START's specification,

Consultant will promptly correct, repair or modify the identified defect or deviation within thirty (30) days of START's written demand. If Consultant fails to correct, repair, or modify the defect or deviation to START's reasonable satisfaction, Consultant will promptly refund to START the amount paid to Consultant for the Deliverable and this Agreement will be deemed terminated.

7. EXCLUSIONS

7.1 No OIG Exclusion. Consultant represents and warrants that neither Consultant nor any parent or affiliate of Consultant nor any Consultant Staffer assigned to perform the Services has been suspended, disqualified, debarred, or otherwise excluded from or declared ineligible to bid or perform work for any governmental agency or otherwise prohibited from participation in any Program, and to the best of its knowledge, there are no pending or threatened civil anti-trust or criminal investigations or pending or threatened debarments, suspensions or exclusions of any of the foregoing from any Program. Consultant covenants to notify START as soon as practicable if Consultant is excluded, barred, or suspended from participation in a Program and to refrain from employing or contracting for purposes of providing services to START with any individual or entity known by Consultant to be sanctioned, suspended, or excluded from participation in any Program. Consultant will defend, indemnify and hold START harmless from any loss, cost, fine, penalty or expense incurred by START as a result of or arising from a breach of the foregoing representation and warranty.

7.2. No SEL Exclusion. Consultant represents and warrants that neither Consultant nor any parent or affiliate of Consultant nor any Consultant Staffer assigned to perform the Services, who will have regular and substantial contact with persons receiving services at START, and either are included in the SEL, or have committed serious or repeated acts of abuse and/or neglect against vulnerable persons (as defined in the New York Social Services Law) in programs subject to the jurisdiction of the NYSJC. If Consultant or Consultant Staffer will have regular and substantial contact with persons receiving services at START, Consultant agrees to provide information for these persons, to allow START to verify whether they are included in the SEL, including their full name and social security number. Consultant will defend, indemnify and hold START harmless from any loss, cost, fine, penalty or expense incurred by START as a result of or arising from a breach of the foregoing representation and warranty.

8. Insurance. Consultant will maintain the following insurance coverage with insurance carriers with a rating of no less than A by A.M. Best Company, or equivalent rating by another recognized rating agency, and authorized to conduct business in New York State: (i) commercial general liability insurance, written on an occurrence basis, for \$2 million per occurrence/\$4 million annual aggregate, including broad form property damage and contractual liability endorsements (which may consist of primary insurance and umbrella (excess) insurance) (ii) statutory workers' compensation/employment liability insurance (unless Consultant is a sole proprietorship, in which event such insurance will not be required), (iii) if Consultant provides computer services in which Consultant accesses the databases or networks of START, cyber insurance for a minimum of \$2 million and (iv) if Consultant provides professional services, errors and omissions (professional liability) insurance for \$2 million. Consultant will furnish certificates of insurance evidencing such coverages to START Treatment & Recovery Centers, Inc. 937 Fulton Street, Brooklyn, NY 11238, Attn: Chief Financial Officer, prior to commencing any services. The certificates will reflect the insurance coverages and the effective dates and expiration dates of the policies and will name START as additional insured with respect to the commercial general liability coverage, at no cost to START. Consultant will endeavor to give START at least 30 days' notice of cancellation or any material change to such insurance.

9. Indemnification. Consultant covenants and agrees to indemnify and hold harmless START and its respective officers, trustees, employees and agents (each an "Indemnitee") harmless from and against any and all claims, damages, losses or expenses (collectively, "Claims") incurred by an Indemnitee (i) as a result of any material breach of this Agreement by Consultant; and (ii) arising out the acts or omissions of Consultant (including Consultant Staffers, employees, agents, and licensees), except to the extent such Claims result from the negligence or willful misconduct of an Indemnitee. START will promptly notify Consultant of any Claims and cooperate with Consultant in the defense or settlement thereof, provided that START will have the right to participate in such defense at its own expense. Consultant will not enter into settlement of any Claims that impose upon any Indemnitee any liability or obligation without START's prior written consent.

10. Confidentiality; Protected Health Information.

- (a) If in connection with the performance of the Services Consultant comes into possession of any Confidential Information of START, Consultant will not disclose such Confidential Information to any third party, except as otherwise expressly permitted herein, or use any Confidential Information for any purpose outside the scope of this Agreement or in any manner that would constitute a violation of any laws or regulations. Consultant will not make Confidential Information available to any of its employees and /or agents except those that have agreed to be bound by confidentiality obligations similar to those set forth herein and have a “need to know” such Confidential Information. Consultant agrees to hold START’s Confidential Information in confidence and to take all precautions to protect such Confidential Information at least as effectively as Consultant employs with respect to its own Confidential Information.
- (b) As used herein, “Confidential Information” means all confidential and/or proprietary information of START disclosed to Consultant, whether orally or in writing, that is designated as “confidential” or the like, or, that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure. The term Confidential Information will not include, and Consultant will have no obligation to preserve the confidential and proprietary nature of, any information, that: (i) is or becomes a matter of public knowledge through no act or omission of Consultant or any Consultant Staffer; (ii) was previously known by Consultant prior to the disclosure without restriction on disclosure; (iii) is lawfully disclosed to Consultant by a third party that lawfully and rightfully possesses such information without restriction on disclosure; or (iv) Consultant is compelled to disclose by lawful process (whether by interrogatories, requests for information or documents, subpoena, civil investigative demands or other processes), provided, that Consultant will promptly advise START of any such legal demand.
- (c) Upon termination of this Agreement Consultant will, at START’s option, return to START all documentary Confidential Information or destroy such information without retaining any copies thereof. Notwithstanding the return or destruction of the Confidential Information, Consultant will continue to be bound by the obligations of confidentiality and other obligations hereunder.
- (d) If and to the extent Consultant has access to a START patient’s protected health information (as defined in the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder), or information that would identify a START patient as having or having had a substance use disorder (as described in the federal confidentiality regulations; 42 CFR Part 2), the parties will execute a Business Associate and Qualified Services Organization Agreement.

11. PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN

11.1 Minority and Women Business Enterprises

To the extent that Consultant employs any subcontractor or otherwise authorizes another person or entity to fulfill any of its duties under this Agreement or retains any supplier in connection with this Agreement, Consultant agrees that it will adhere to the provisions of New York State Executive Law Article 15-A and 5 NYCRR Part 142, which provisions are intended to promote and advance the participation of minority group members and women-owned business enterprises (MWBES) in certain contract opportunities.

Consultant must document “good faith efforts,” consistent with 5 NYCRR § 142.8, to provide meaningful participation by MWBES as subcontractors and/or suppliers in the performance of this Agreement. Such documentation will include, but not necessarily be limited to:

- a) Evidence of outreach to MWBES;
- b) Any responses by MWBES to the Contractor’s outreach;
- c) Copies of advertisements for participation by MWBES in appropriate general circulation, trade, and minority or women-oriented publications;
- d) The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled with MWBES; and,
- e) Information describing specific steps undertaken by the Consultant to reasonably structure the contract scope of work to maximize opportunities for MWBE participation

11.2 Equal Employment Opportunity

In performing this Agreement, Consultant will ensure that each subcontractor and supplier performing work on this Agreement will undertake or continue existing Equal Employment Opportunity (“EEO”) programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, religion, national origin, sex, age, sexual orientation, gender identity, disability, or

marital status. For these purposes, EEO will apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

Consultant will submit its EEO policy statement to START upon execution of this Agreement and any amendments thereto will be provided within a reasonable period thereafter. Consultant will also provide same upon demand by START.

If Consultant, or any of its subcontractors or suppliers, does not have an existing EEO policy statement, Consultant, its subcontractors or suppliers may adopt the model statement: see Form OCSD-1 M/WBE Participation/ Equal Employment Opportunity Policy Statement. at <https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf>

Consultant's EEO policy statement must include the following language:

- a) That Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, religion, national origin, sex, age, sexual orientation, gender identity, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
- b) That Consultant will state in all solicitations or advertisements for employees that, in the performance of this Agreement, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, religion, national origin, sex, age, sexual orientation, gender identity, disability or marital status.
- c) That Consultant will request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, religion, national origin, sex, age, sexual orientation, gender identity, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of Consultant's obligations herein.
- d) That Consultant will comply with the provisions of the New York Human Rights Law, and all other New York State and Federal statutory and constitutional non-discrimination provisions. That Consultant and its subcontractors will not discriminate against any employee or applicant for employment because of race, creed, color, religion, national origin, sex, age, sexual orientation, gender identity, disability, or marital status, predisposing genetic characteristic, marital status, or domestic violence victim status, and will also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
- e) Consultant will include the provisions of Subdivisions (a) through (e) of Subsection 11.2 of this Agreement, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with this Agreement.

12. Independent Contractor.

- (a) It is understood and agreed that Consultant is an independent contractor and is not, nor will it be considered, an agent or representative of START. Under no circumstances will any Consultant Staffer (or Consultant, if Consultant is an individual) be deemed to be an employee, agent, or representative of START or entitled to any disability benefit, workers' compensation, or participation in any of START's pension, health, or other benefit plans. Consultant will be solely responsible for the payment of all federal, state, and local payroll taxes, income taxes, Social Security and any other fees, charges or payments required by law.
- (b) Consultant covenants that all Consultant Staffers (or Consultant, if Consultant is an individual) performing the Services have United States immigration status and work authorization that permits them to carry out their assigned tasks, and that Consultant is responsible for complying with all immigration and employment-related requirements, including United States Citizenship and Immigration Services Form I-9.
- (c) Consultant hereby agrees to indemnify and hold harmless START against any fines, damages, assessments, or attorneys' fees incurred by START in the event a court or administrative agency finds that Consultant and/or any Consultant Staffer is in violation of Form I-9 and/or any other immigration related requirements.

13. Use of Name. Consultant will not use the name, logo, insignia, symbol, or trademark of START, or any variations or combinations thereof or the name of any START personnel in any advertising or for any commercial or

promotional purpose without START's prior written consent, provided that Consultant may include START on its client list.

14. Compliance with Law and Policies.
 - (a) Notwithstanding any other provision in this Agreement, START remains responsible for ensuring that any health care service provided pursuant to this Agreement complies with all pertinent provisions of federal, state, and local statutes, rules, and regulations, provided that the foregoing will not relieve Consultant of its obligations hereunder.
 - (b) Consultant will comply, and cause Consultant Staffers to comply, with all of START's policies and procedures, including, without limitation, those governing START's information technology systems and health screening requirements.
15. Notices. All notices, demands and other communications hereunder will be in writing and will be effective if hand delivered or emailed against receipt, delivered by overnight mail, or sent by registered or certified mail, return receipt requested, postage prepaid. Notices to Consultant will be sent to the address set forth above, and notices to START will be sent to START Treatment & Recovery Centers, Inc., 937 Fulton Street, Brooklyn, NY 11238 Attn: Chief Financial Officer (with a copy that will not constitute notice herein, to START Treatment & Recovery Centers, Inc., 937 Fulton Street, Brooklyn, NY 11238 Attn: General Counsel), or to such other person(s) or address(es) as any party may request by giving written notice of such change in the manner provided in this Section.
16. Records Retention and Access. To the extent required by law, until the expiration of four years after the furnishing of the services which are the subject matter of this Agreement, Consultant will, upon request, make available to the United States Department of Health and Human Services, the United States Comptroller General and their representatives (collectively, "HHS") this Agreement and all other books, documents and records as are necessary to certify the nature and extent of the costs incurred by START. If Consultant provides such services through a subcontract or consulting agreement worth \$10,000 or more over a twelve-month period, the subcontract or consulting agreement will also contain a clause permitting access by the HHS to the books and records of the subcontractor. Consultant will give START notice of any request made directly by HHS upon Consultant.
17. Assignment. Neither party may assign or delegate its rights or obligations without the other party's prior written consent, provided that either party may, upon notice to the other, assign this Agreement to any U.S. entity that is now or in the future controlled by or under common control with the assigning party or to any other entity as the result of a transfer of all or substantially all of the assigning party's assets or capital stock or membership interest.
18. Survival. All sections herein relating to deliverables, confidentiality, indemnification, use of name, notices, access to records, survival, assignment, and governing law will survive the expiration or early termination of this Agreement.
19. Governing Law. This Agreement will be governed and construed in accordance with the laws of the State of New York without regard to any applicable conflicts of law. Each party agrees that any legal action, suit, or proceeding brought by it in any way arising out of this Agreement must be brought solely and exclusively in the United States District Court for the Southern District of New York or appropriate New York state court.
20. Miscellaneous. This Agreement and the appendices hereto constitute the entire agreement between the parties and supersede any and all prior and collateral negotiations and agreements between the parties. This Agreement may be amended only in writing signed by the parties hereto. No waiver of any provision of this Agreement will be binding on any party unless consented in writing by such party. No waiver of any provision hereof will constitute a waiver of any other provisions, nor limit or affect such party's rights with respect to any future breach of any of the provisions of this Agreement. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such determination will not impair or affect the validity, legality, or enforceability of the remaining provisions hereof, and each provision is hereby declared to be separate, severable, and distinct. This Agreement may be executed in counterparts (including by facsimile or PDF), each of which will be deemed an original and all of which together will continue one and the same instrument.

< signatures continued next page >

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives.

START Treatment & Recovery Centers, Inc.

Sign: _____

Sign: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EIN #: _____

License #: _____