

**CONTRACT BETWEEN
RehabClinics, (SPT), Inc. d/b/a NOVACARE REHABILITATION
AND
THE COUNTY OF GLOUCESTER**

THIS CONTRACT is made effective the 1st day of **January, 2016**, by and between **THE COUNTY OF GLOUCESTER**, a body politic and corporate, with offices in Woodbury, New Jersey, hereinafter referred to as "**County**", and RehabClinics (SPT), Inc. d/b/a **NovaCare Rehabilitation**, with offices at Larchmont Commons Shopping Plaza, 3115 Rt. 38, Suite 200, Mt. Laurel, NJ 08054 (hereinafter "**NovaCare**").

RECITALS

WHEREAS, there exists a need by the County of Gloucester for professional pre-placement comprehensive post-offer functional employment screenings, fitness for duty screenings, and Functional Capacity Evaluations (FCE's) as needed; and

WHEREAS, NovaCare has agreed to perform the FCE's while using the services of WorkSTEPS, Inc, a Texas corporation located at University Business Park, 3019 Alvin Devane, Suite 150, Austin, Texas, 78741 as their designated subcontractor.

WHEREAS, WorkSTEPS, Inc. has developed functional employment testing protocols and procedures that the County desires to utilize for its functional employment testing program; and

WHEREAS, WorkSTEPS, Inc. desires to assist the County as subcontractor to NovaCare in implementing the WorkSTEPS functional employment testing program;

NOW, THEREFORE, in consideration of the mutual promises, agreements and other considerations made by and between the County, and NovaCare, hereinafter "the parties") do hereby agree as follows:

TERMS OF AGREEMENT

1. **TERM.** This Contract shall be effective for the period commencing January 1, 2016, and concluding on December 31, 2016.
2. **COMPENSATION.** NovaCare shall be compensated at the rate of \$150.00 per comprehensive post offer functional employment screening; \$150.00 per fitness for duty screening; up to \$900.00 per FCE; and, a \$50.00 fee per appointment for a no-show (as applicable), with the total annual compensation not to exceed \$10,000.00.

It is agreed and understood that this is an open-ended contract, thereby requiring the County to use NovaCare's service only on an as-needed basis. There is no obligation on the part of the County to make any purchases whatsoever.

NovaCare shall be paid in accordance with this Contract document upon receipt of an invoice and a properly executed voucher. After approval by County, the payment voucher shall be placed in line for prompt payment.

Each invoice shall contain an itemized, detailed description of all work performed during the billing period. Failure to provide sufficient specificity shall be cause for rejection of the invoice until the necessary details are provided.

It is also agreed and understood that the acceptance of the final payment by NovaCare shall be considered a release in full of all claims against the County arising out of, or by reason of, the work done and materials furnished under this Contract.

3. DUTIES OF NOVACARE AND SUBCONTRACTOR. The specific duties of NovaCare, with use of their designated 3rd Party subcontractor shall be as set forth in NovaCare's proposal, which is incorporated in its entirety and made a part of this Contract. NovaCare agrees that it has or will comply with, and where applicable shall continue throughout the period of this contract to comply with, all of the requirements of any specifications which may have been issued by the Gloucester County Human Resources Department in connection with the services to be performed.

NovaCare agrees that it has or will comply with, and where applicable shall continue throughout the period of this contract to comply with, all of the requirements of the bid documents and/or in the request for proposals, if any, as the case may be.

4. FURTHER OBLIGATIONS OF THE PARTIES. During the performance of this Contract, the Contractor agrees as follows:

The Contractor and/or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the Contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The Contractor and/or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The Contractor and/or subcontractor will send to each labor union with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the Contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Contractor and/or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The Contractor and/or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

Employment Decision. The County acknowledges and understands that this Agreement contemplates the functional employment testing of prospective employees and/or actual employees of County. The County, as employer of the individuals tested have a significant role, both before and after the test, including, but not limited to, selection of the essential functions of the applicable job, the writing of job descriptions, if any, in communicating with the individuals to be tested in a consistent manner, in making appropriate employment decisions based on test results, and in properly processing and advising those individuals tested.

Adherence to Laws. The County agrees to follow State and Federal employment laws, regulations and practices including, but not limited to, appropriate procedures related to employment testing as set forth in the Americans' with Disabilities Act and any and all applicable laws. County further acknowledges that County, not NovaCare, nor designated subcontractor, WorkSTEPS is responsible for making employment decisions concerning any post employment candidates' or current employees' suitability for employment or continued employment, and for making decisions concerning reasonable accommodations.

5. **LICENSING AND PERMITTING.** If NovaCare or any of its agents is required to maintain a license, or to maintain in force and effect any permits issued by any governmental or quasi-governmental entity in order to perform the services which are the subject of this Contract, then prior to the effective date of this Contract, and as a condition precedent to its taking effect, NovaCare shall provide to County a copy of its current license and permits required to operate in the State of New Jersey, which license and permits shall be in good standing and shall not be subject to any current action to revoke or suspend, and shall remain so throughout the term of this Contract.

NovaCare shall notify County immediately in the event of suspension, revocation or any change in status (or in the event of the initiation of any action to accomplish such suspension, revocation and/or change in status) of license or certification held by NovaCare or its agents.

6. **TERMINATION.** This Contract may be terminated as follows:

A. Pursuant to the termination provisions set forth in the Bid Specifications or in the Request for Proposals, if any, as the case may be, which are specifically referred to and incorporated herein by reference.

B. If NovaCare is required to be licensed in order to perform the services which are the subject of this Contract, then this Contract may be terminated by County in the event that the appropriate governmental entity with jurisdiction has instituted an action to have NovaCare's license suspended, or in the event that such entity has revoked or suspended said license. Notice of termination pursuant to this subparagraph shall be effective immediately upon the giving of said notice.

C. If, through any cause, NovaCare or subcontractor, where applicable, shall fail to fulfill in timely and proper manner his obligations under this Contract, or if NovaCare shall violate any of the covenants, agreements, or stipulations of this Contract, the County shall thereupon have the right to terminate this Contract by giving written notice to the NovaCare of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, and reports prepared by NovaCare under this Contract, shall be forthwith delivered to the County.

D. The County may terminate this Contract for public convenience at any time by a notice in writing from the County to NovaCare. If the Contract is terminated by the County as provided herein, NovaCare will be paid for the services rendered to the time of termination.

E. Notwithstanding the above, NovaCare or subcontractor, where applicable, shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by NovaCare, and the County may withhold any payments to NovaCare for the purpose of set off until such time as the exact amount of damages due the County from NovaCare is determined.

F. NovaCare shall have the right to terminate this Contract by giving a 60-day written notice to the County of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, and reports prepared by NovaCare under this Contract, shall be forthwith delivered to the County.

G. Termination shall not operate to affect the validity of the indemnification provisions of this Contract, nor to prevent the County from pursuing any other relief or damages to which it may be entitled, either at law or in equity.

7. **PROPERTY OF THE COUNTY.** All materials developed, prepared, completed, or acquired by NovaCare during the performance of the services specified by this Contract, including, but not limited to, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports, shall become the property of the County, except as may otherwise be stipulated in a written statement by the County.

8. **INDEMNIFICATION.** NovaCare, where applicable, shall be responsible for, shall keep, save and hold the County of Gloucester harmless from, shall indemnify and shall defend the County of Gloucester against any claim, loss, liability, expense (specifically including but not limited to costs, counsel fees and/or experts' fees), or damage resulting from all mental or physical injuries or disabilities, including death, to employees or recipients of NovaCare's services or to any other persons, or from any damage to any property sustained in connection with this contract which results from any acts or omissions, including negligence or malpractice, of any of its officers, directors, employees, agents, servants or independent contractors, or from NovaCare's failure to provide for the safety and protection of its employees, or from NovaCare's performance or failure to perform pursuant to the terms and provisions of this Contract. NovaCare's liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

9. **INSURANCE.** NovaCare shall, if applicable to the services to be provided, maintain general liability, automobile liability, business operations, builder's insurance, and Workers' Compensation insurance in amounts, for the coverages, and with companies deemed satisfactory by County, and which shall be in compliance with any applicable requirements of the State of New Jersey. NovaCare shall, simultaneously with the execution of this Contract, deliver certifications of said insurance to County, naming County as an additional insured.

If NovaCare is a member of a profession that is subject to suit for professional malpractice, then NovaCare shall maintain and continue in full force and effect an insurance policy for professional liability/malpractice with limits of liability acceptable to the County. NovaCare shall, simultaneously with the execution of this Contract, and as a condition precedent to its taking effect, provide to County a copy of a certificate of insurance, verifying that said insurance is and will be in effect during the term of this Contract. The County shall review the certificate for sufficiency and compliance with this paragraph, and approval of said certificate and policy shall be necessary prior to this Contract taking effect. NovaCare also hereby agrees to continue said policy in force and effect for the period of the applicable statute of limitations following the termination of this Contract and shall provide the County with copies of certificates of insurance as the certificates may be renewed during that period of time.

10. **SET-OFF.** Should NovaCare either refuse or neglect to perform the service that NovaCare is required to perform in accordance with the terms of this Contract, and if expense is incurred by County by reason of NovaCare's failure to perform, then and in that event, such expense shall be deducted from any payment due to NovaCare. Exercise of such set-off shall not operate to prevent County from pursuing any other remedy to which it may be entitled.

11. **PREVENTION OF PERFORMANCE BY COUNTY.** In the event that the County is prevented from performing this Contract by circumstances beyond its control, then any obligations owing by the County to NovaCare shall be suspended without liability for the period during which the County is so prevented.

12. **METHODS OF WORK.** NovaCare agrees that in performing its work, it shall employ such methods or means as will not cause any interruption or interference with the operations of County or infringe on the rights of the public.

13. **NONWAIVER.** The failure by the County to enforce any particular provision of this Contract, or to act upon a breach of this Contract by NovaCare, shall not operate as or be construed as a waiver of any subsequent breach, nor a bar to any subsequent enforcement.

14. **PARTIAL INVALIDITY.** In the event that any provision of this Contract shall be or become invalid under any law or applicable regulation, such invalidity shall not affect the validity or enforceability of any other provision of this Contract.

15. **CHANGES.** This Contract may be modified by approved change orders, consistent with applicable laws, rules and regulations. The County, without invalidating this Contract, may order changes consisting of additions, deletions, and/or modifications, and the contract sum shall be adjusted accordingly. This Contract and the contract terms may be changed only by change order. The cost or credit to the County from change in this Contract shall be determined by mutual agreement before executing the change involved.

16. **NOTICES.** Notices required by this Contract shall be effective upon mailing of notice by regular and certified mail to the addresses set forth above, or by personal service, or if such notice cannot be delivered or personally served, then by any procedure for notice pursuant to the Rules of Court of the State of New Jersey.

17. **APPLICABLE LAW.** The terms and provisions of this Contract shall be construed pursuant to the laws of the State of New Jersey and, where applicable, the laws of the United States of America.

18. **INDEPENDENT CONTRACTOR STATUS.** The parties acknowledge that NovaCare is an independent contractor and is not an agent of the County.

19. **CONFLICT OF INTEREST.** NovaCare covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services pursuant to this Contract. The Company further covenants that in the performance of this Contract, no person having any such interest shall be employed.

20. **CONFIDENTIALITY.** NovaCare agrees not to divulge or release any information, reports, or recommendations developed or obtained in connection with the performance of this Contract, during the term of this Contract, except to authorized County personnel or upon prior approval of the County.

All data and information generated by the designated subcontractor, WorkSTEPS Functional Employment Testing Program for County shall be the property of the WorkSTEPS and the County. WorkSTEPS shall use best efforts to keep such data or information in a legally compliant manner pursuant to all state or federal laws affecting such data or information. The County may keep copies of data or information for use in its normal course of business, but the County hereby agrees that should it have possession of any WorkSTEPS materials, forms, procedures, protocols, or information, that such shall be deemed proprietary and confidential and kept strictly confidential. The County shall use best efforts to see that such is not utilized for any purpose that would reasonably be deemed in competition with WorkSTEPS.

Notwithstanding any prohibition contained within this Section, WorkSTEPS or the County may release data or information as contemplated herein should a state or federal court of law require it. WorkSTEPS may also release data or information received from the testing of County employees for any legitimate business purpose, provided that any personal information is kept confidential, and that all state and federal laws regarding such data or information are strictly followed.

21. **ACKNOWLEDGEMENT.** The County acknowledges that designated subcontractor, WorkSTEPS has invested considerable time and financial resource in the training, education, and certification of the professional staff necessary to deliver the services set forth in this Agreement. During the term of this Agreement, and for a period of one year after its termination, the County agrees that it shall not actively or knowingly solicit or make an offer of employment to any of WorkSTEPS employees or WorkSTEPS licensed Providers associated with the delivery of these services to the County.

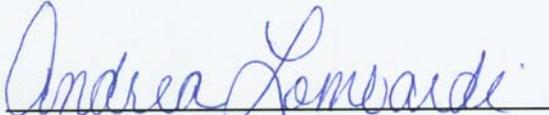
22. **RESTRICTIONS ON USE OF PROPRIETARY INFORMATION.** Without limiting the generality of this Section, THE PARTIES agree that after the termination or expiration of this Agreement, such PARTIES will not use the proprietary, confidential information of the other PARTY to provide the same or similar services to any person (unless and until such information ceases to be proprietary and confidential through no fault of the PARTY seeking to use the same), however, nothing in this Section shall prohibit Company or its affiliates, after termination of this Agreement, from providing a service to the County similar to the services provided by NovaCare hereunder as long as neither the County nor its affiliates uses the proprietary, confidential information of designated subcontractor, WorkSTEPS in so doing.

23. **BINDING EFFECT.** This Contract shall be binding on the undersigned and their successors and assigns.

THIS CONTRACT is dated this 1st day of January, 2016.

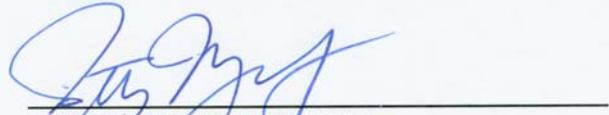
IN WITNESS WHEREOF, the Gloucester County Purchasing Agent, pursuant to authority granted to him and set forth in the County Administrative Code has executed this Agreement and NovaCare's authorized representative has executed this Agreement on the date indicated herein.

ATTEST:



ANDREA LOMBARDI,
PRINCIPAL CLERK TYPIST

COUNTY OF GLOUCESTER



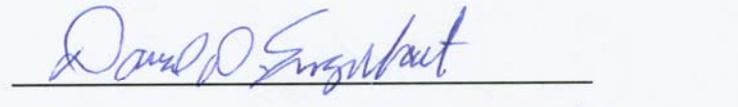
PETER M. MERCANTI,
PURCHASING DIRECTOR

ATTEST:



5/11/16

RehabClinics (SPT), Inc. d/b/a
NOVACARE REHABILITATION



David D. Engelhardt, VP of National Contracting
(Please print name) 5-11-16