

**SIGNATURE DOCUMENT FOR  
DEPARTMENT OF STATE HEALTH SERVICES  
CONTRACT NO. 2017-049610-001**

**I. PURPOSE**

The Department of State Health Services (“System Agency”), an administrative agency within the executive department of the State of Texas and having its principal office in Austin, Texas, and AUSTIN-TRAVIS COUNTY MHMR dba AUSTIN TRAVIS COUNTY INTEGRAL CARE (“Contractor”), having its principal office in AUSTIN, TX (each a “Party” and collectively “the Parties”) enter into the following contract for Youth Empowerment Services Waiver Pre-Engagement Services (MH/YESPE) (the “Contract”).

**II. LEGAL AUTHORITY**

This Contract is authorized by and in compliance with the provisions of Health and Safety Code, Section 12.051.

**III. DURATION**

The Contract is effective on 09/01/2016 and terminates 08/31/2017, unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. System Agency, at its own discretion, may extend this Contract terms subject to terms and conditions mutually agreeable to the Parties.

**IV. BUDGET**

The total amount of this Contract will not exceed \$2,000.00. All expenditures under the Contract will be in accordance with **ATTACHMENT A, STATEMENT OF WORK.**

**V. CONTRACT REPRESENTATIVES.**

The following will act as the Representative authorized to administer activities under this Contract on behalf of their respective Party.

**System Agency**

The Department of State Health Services  
P.O. Box 149347, Mail Code 2058  
Austin, Texas, 78714-9347  
Attention: Judith Tyler

**Contractor**

AUSTIN TRAVIS COUNTY MHMR  
DBA AUSTIN TRAVIS COUNTY INTEG 1430 COLLIER ST

AUSTIN, TX 78704-2911  
Attention: David Evans

**VI. LEGAL NOTICES**

Any legal notice required under this Contract shall be deemed delivered when deposited by the System Agency either in the United States mail, postage paid, certified, return receipt requested; or with a common carrier, overnight, signature required, to the appropriate address below:

**System Agency**

The Department of State Health Services  
Attention: Lisa Hernandez  
1100 W. 49<sup>th</sup> Street, MC 1911  
Austin, TX Texas 78756-3199  
Attention: Lisa Hernandez, General Counsel

**Contractor**


AUSTIN-TRAVIS COUNTY MHMR DBA AUSTIN TRAVIS COUNTY  
INTEGRAL CARE  
DBA AUSTIN TRAVIS COUNTY INTEG  
AUSTIN, TX 78704-2911  
Attention: David Evans

Legal notice given by Contractor shall be deemed effective when received by the System Agency. Either Party may change its address for notice by written notice to the other Party.

**SIGNATURE PAGE FOLLOWS**

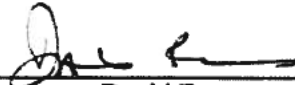
**SIGNATURE PAGE FOR SYSTEM AGENCY CONTRACT NO. 2017-049610-001**

Health and Human Services Commission

By:   
Sonja Gaines  
Associate Commissioner  
Behavioral Health and IDD Services

Date: 8/5/16

AUSTIN-TRAVIS COUNTY MHR  
DBA AUSTIN TRAVIS COUNTY  
INTEGRAL CARE

  
Name: David Evans  
Title: CEO  
Date of execution: 10/2/16

**THE FOLLOWING ATTACHMENTS TO SYSTEM AGENCY CONTRACT NO. 2017-049610-001 ARE HEREBY ATTACHED AND INCORPORATED BY REFERENCE:**

- ATTACHMENT A – STATEMENT OF WORK**
- ATTACHMENT A-1 – ELECTRONIC REMITTANCE AND STATUS AGREEMENT**
- ATTACHMENT A-2 – SECURITY ADMINISTRATOR ATTESTATION & AUTHORIZED USERS LIST**
- ATTACHMENT B – UNIFORM TERMS AND CONDITIONS**
- ATTACHMENT C – GENERAL AFFIRMATIONS**
- ATTACHMENT D – SUPPLEMENTAL AND SPECIAL CONDITIONS**
- ATTACHMENT E – FEDERAL AFFIRMATIONS AND ASSURANCE**
- ATTACHMENT F – DATA USE AGREEMENT**
- ATTACHMENT G – NON-EXCLUSIVE LIST OF APPLICABLE LAWS**

**ATTACHMENTS FOLLOW**

**ATTACHMENT A  
STATEMENT OF WORK**

**SECTION I – CONTRACTOR RESPONSIBILITIES**

System Agency and Contractor hereby enter into this Contract for the provision of the Youth Empowerment Services Waiver (YES Waiver) Pre-Engagement Services (MH/YESPE). Contractor shall perform all YES Waiver Pre-Engagement Services as outlined in the YES Waiver Policies and Procedure Manual (Manual), which is incorporated by reference, and is located at <https://www.dshs.state.tx.us/mhsa/yes/>.

Contractor is certified by System Agency to provide YES Waiver Pre-Engagement Services to individuals seeking enrollment the YES Waiver (Waiver Participants) who reside in the following counties: Travis.

Contractor shall:

- A. Contractor shall comply with terms and conditions set forth in the most current version of the Manual. In addition to covering general topics, the Manual contains detailed information specific to Contractor's roles and responsibilities.
- B. Contractor shall provide the service components specified below in accordance with applicable state laws, rules and Yes Waiver requirements. These include, but are not limited to, applicable federal laws and regulations, including the Code of Federal Regulations (C.F.R.) Title 42, Parts 440, 441, 455 and 456; the laws, rules and regulations cited in the various sections of the Manual; and any applicable rules or regulations that are promulgated subsequent to the execution of this Contract.
- C. Contractor shall provide YES Waiver Pre-Engagement Services required to enroll individuals into the YES Waiver program. YES Waiver Pre-Engagement Services are those services provided to individuals who are not enrolled in Medicaid at the time of their referral, and who become enrolled in Medicaid only as a result of enrollment in the YES Waiver. Pre-Engagement services include, at a minimum:
  - 1. Conducting Assessments required for determining waiver eligibility;
  - 2. Completing waiver specific eligibility forms;
  - 3. Assisting the potential client in obtaining the paperwork necessary for determining Medicaid eligibility;
  - 4. Development of Individual Plan of Care (IPC) Pending; and
  - 5. Submission of all Medicaid eligibility paperwork to System Agency for processing.
- D. Contractor shall request appropriate written consent from each individual for the disclosure of protected health information or other sensitive personal information.
- E. Contractor agrees that neither Contractor nor any of its controlling parties has been excluded or debarred from participation in any state or federal health care program, including any Title XVIII (Medicare) or Title XIX (Medicaid) program, under the provisions of §1128(a) or (b) of the Social Security Act [42 U.S.C. §1320a-7(a) or (b)] or E.O. 12549. Contractor will notify System Agency within 10 days of the date it receives notice that any action is being taken against the Contractor or any individual or entity defined under the provisions of

**ATTACHMENT A  
STATEMENT OF WORK**

§1128(b)(8) or (15) that could result in exclusion of the Contractor from a Medicaid program.

- F. Contractor agrees that rights to payments and recovery of funding from any applicable third party payors, in accordance with 42 C.F.R. §433.145 and Texas Human Resources Code §32.033, is assigned to System Agency, or its designee, for any individuals served under this Contract.
- G. Contractor agrees to make required submittals in a format approved by System Agency.
- H. Contractor agrees to submit, via encrypted email, all the required data that is needed to complete the monthly invoicing, encounter data sheets, and as well as, maintaining all invoices for all YES Waiver Pre-Engagement Services. The instructions are listed in the Manual.
- I. Contractor agrees to provide documentation of completion and provision of all activities outlined in Section I.C within seven business days after notification of Medicaid denial is received.
- J. Contractor agrees to inform System Agency, in writing, of any changes that affect Contractor's administrative or service provision activities at least ten (10) days prior to making changes. This includes, but not limited to, changes in ownership or control, federal tax identification number or addresses.
- K. Contractor agrees to maintain enrollment as a YES Waiver Provider in accordance with the Texas Medicaid and Healthcare Partnership Provider Enrollment process.
- L. All reports, documentation, and other information required of Contractor shall be submitted electronically to the [mhcontracts@dshs.state.tx.us](mailto:mhcontracts@dshs.state.tx.us) email address, as well as to the assigned contract manager and the System Agency YES Waiver Contact. If System Agency determines that Contractor needs to submit deliverables by mail or fax, Contractor shall submit the required information to one of the following addresses:

U.S. Postal Mail:  
Department of State Health Services  
Mental Health Contracts Management Unit (Mail Code 2058)  
P. O. Box 149347  
Austin, TX 78714-9347

Overnight Mail:  
Department of State Health Services  
Mental Health Contracts Management Unit (Mail Code 2058)  
909 West 45th Street, Bldg. 552  
Austin, TX 78751  
Fax: (512) 206-5307467-5476

**ATTACHMENT A  
STATEMENT OF WORK**

- M. System Agency agrees to provide an administrative hearing to Contractor, in accordance with 25 Texas Administrative Code Chapter 357 and other applicable state and federal laws, rules, and regulations, concerning an adverse action taken.
- N. Contractor shall submit Attachment A-1 Electronic Remittance and Status Agreement, as applicable, no later than 30 days following the execution of this Contract.
- O. Contractor shall submit Attachment A-2 Security Administrator Attestation to provide the name, phone number, and email address of the Security Administrator and a back-up Security Administrator no later than 30 days following the execution of this Contract.
- P. Contractor shall submit Attachment A-2 Security Administrator Attestation to notify System Agency within ten (10) business days of any change to the designated Security Administrator or the back-up Security Administrator.
- Q. Contractor shall submit Attachment A-2 Security Administrator Attestation every 6 months during the term of this Contract.
- R. Clinical Management For Behavioral Health Services
1. Contractor shall submit service notes into the Clinical Management for Behavioral Health Systems (CMBHS) system for all services provided. Detailed instructions outlining the process for submitting service notes can be found in the Manual.
  2. Contractor shall ensure that it has appropriate Internet access, and an adequate number of computers of sufficient capability to use CMBHS. If Contractor purchases equipment with System Agency Funds, then the equipment shall be inventoried, maintained in working order, and secured.
  3. Contractor shall notify System Agency immediately if a security violation is detected, or if Contractor has any reason to suspect that the security or integrity of CMBHS data has been or may be compromised in any way.
  4. Contractor is required to update records on a daily basis to reflect any changes in account status.
  5. Contractor shall ensure that adequate internal controls, security, and oversight are established for the approval and electronic transfer of information regarding payments and reporting requirements.
  6. Contractor shall ensure that the electronic payment requests and reports transmitted contain true, accurate, and complete information.
  7. System Agency, at its sole discretion, may limit or deny access to CMBHS by Contractor at any time provided, however, that Contractor shall not be liable for any failure to

**ATTACHMENT A  
STATEMENT OF WORK**

comply with the terms of this Contract if such failure is a result of such limitation or denial of access.

8. Contractor shall use the following CMBHS components/functionality:
  - a. Staff Member;
  - b. User Profiles;
  - c. Assign Roles; and
  - d. Client Profile.
9. Contractor's network monitoring shall include troubleshooting or assistance with Contractor-owned Wide Area Networks (WANs), Local Area Networks (LANs), router switches, network hubs or other equipment and Internet Service Provider (ISP).
10. Contractor shall maintain responsibility for local procedures to end-users and be responsible for data backup, restore, and contingency planning functions for all local data.
11. Contractor shall:
  - a. Create, delete, and modify end-user LAN-based accounts;
  - b. Change/reset user local passwords as necessary;
  - c. Administer security additions/changes and deletions for CMBHS;
  - d. Install, maintain, monitor, and support Contractor LANs and WANs; and
  - e. Select, purchase service from, and monitor performance of ISP.
12. System Agency will provide support for CMBHS, including problem tracking and problem resolution.
13. System Agency will provide telephone numbers for Contractor to access expert assistance for CMBHS-related problem resolution.
14. System Agency will provide initial CMBHS training, and Contractor shall provide subsequent ongoing end-user training.
15. Contractor shall designate a Security Administrator and a back-up Security Administrator. The Security Administrator is required to implement and maintain a system for management of user accounts/user roles to ensure that all user accounts are current.
16. Contractor shall develop and maintain a written security policy that ensures adequate system security and protection of confidential information.
17. Contractor shall complete Attachment A-2 Security Administrator Attestation, confirming the Contractor has reviewed the names of agency employees who have access database systems that may be used in conducting business with System Agency, and Contractor has removed access to users who are no longer authorized to access secure data.

**ATTACHMENT A  
STATEMENT OF WORK**

System Agency agrees to notify Contractor of any amendments to the Manual. Notification will be provided in the form of a broadcast message from the System Agency.

**SECTION II – PERFORMANCE MEASURES:**

The System Agency will monitor the Contractor's performance of the requirements in Attachment A and compliance with the Contract's terms and conditions.

**SECTION III – INVOICE AND PAYMENT**

- A. Contractor shall submit service claims for payment in accordance with the process outlined in the Manual.
- B. Payment Rates: YES Waiver Payment Rates, which are incorporated by reference, can be found at <http://www.hhsc.state.tx.us/rad/long-term-svcs/yes/index.shtml>.



HHSC Uniform Terms and Conditions Version 2.12  
Published and Effective: November 30, 2015  
Responsible Office: Chief Counsel



**Health and Human Services Commission**  
**HHSC Uniform Terms and Conditions - Vendor**  
**Version 2.12**  
**Attachment B**

**TABLE OF CONTENTS**

ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS..... 4

    1.01 Definitions ..... 4

    1.02 Interpretive Provisions..... 5

ARTICLE II. CONSIDERATION ..... 6

    2.01 Prompt Payment ..... 6

    2.02 Expenses..... 6

    2.03 Work Orders..... 6

ARTICLE III. STATE AND FEDERAL FUNDING ..... 7

    3.01 Funding..... 7

    3.02 No debt Against the State..... 7

    3.03 Debt to State..... 7

    3.04 Recapture of Funds..... 7

ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS ..... 8

    4.01 Warranty..... 8

    4.02 General Affirmations..... 8

    4.03 Federal Assurances..... 8

    4.04 Federal Certifications ..... 8

ARTICLE V. OWNERSHIP AND INTELLECTUAL PROPERTY ..... 8

    5.01 Ownership ..... 8

    5.02 Intellectual Property ..... 8

ARTICLE VI. RECORDS, AUDIT, AND DISCLOSURE..... 9

    6.01 Books and Records..... 9

    6.02 Access to records, books, and documents ..... 9

    6.03 Response/compliance with audit or inspection findings ..... 9

    6.04 SAO Audit..... 10

    6.05 Confidentiality..... 10

    6.06 Public Information Act..... 10

ARTICLE VII. CONTRACT MANAGEMENT AND EARLY TERMINATION..... 10

    7.01 Contract Management ..... 10

    7.02 Termination for Convenience..... 10

    7.03 Termination for Cause..... 10

    7.04 Contractor responsibility for associated costs. .... 11

7.05	Equitable Settlement.....	11
ARTICLE VIII. MISCELLANEOUS PROVISIONS .....		11
8.01	Amendment .....	11
8.02	Insurance .....	11
8.03	Legal Obligations .....	12
8.04	Permitting and Licensure.....	12
8.05	Indemnity .....	12
8.06	Assignments .....	13
8.07	Subcontracts .....	13
8.08	HUB/Mentor Protégé .....	13
8.09	Relationship of the Parties.....	13
8.10	Technical Guidance Letters.....	14
8.11	Governing Law and Venue.....	14
8.12	Severability.....	14
8.13	Survivability.....	14
8.14	Force Majeure .....	14
8.15	Dispute Resolution .....	15
8.16	No Waiver of Provisions .....	15
8.17	Publicity .....	15
8.18	Prohibition on Non-compete Restrictions .....	15
8.19	No Waiver of Sovereign Immunity .....	15
8.20	Entire Contract and Modification.....	15
8.21	Counterparts .....	15
8.22	Proper Authority.....	15
8.23	Employment Verification.....	16
8.24	Civil Rights .....	16

## ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

### 1.01 Definitions

As used in this Contract, unless the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

“Amendment” means a written agreement, signed by the parties hereto, which documents changes to the Contract other than those permitted by Work Orders or Technical Guidance Letters, as herein defined.

“Attachment” means documents, terms, conditions, or additional information physically added to this Contract following the Signature Document or included by reference, as if physically, within the body of this Contract.

“Contract” means the Signature Document, these Uniform Terms and Conditions, along with any Attachments, and any Amendments, purchase orders, Work Orders, or Technical Guidance Letters that may be issued by the System Agency, to be incorporated by reference herein for all purposes if issued.

“Contractor” means the Party selected to provide the goods or services under this Contract, if any.

“Deliverable” means a work product prepared, developed, or procured by Contractor as part of the Services under the Contract for the use or benefit of the System Agency or the State of Texas.

“Effective Date” means the date agreed to by the Parties as the date on which the Contract takes effect.

“Federal Fiscal Year” means the period beginning October 1 and ending September 30 each year, which is the annual accounting period for the United States government.

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

“Health and Human Services Commission” or “HHSC” means the administrative agency established under Chapter 531, Texas Government Code or its designee.

“HUB” means Historically Underutilized Business, as defined by Chapter 2161 of the Texas Government Code.

“Intellectual Property” means patents, rights to apply for patents, trademarks, trade names, service marks, domain names, copyrights and all applications and worldwide registration of such, schematics, industrial models, inventions, know-how, trade secrets, computer software programs, and other intangible proprietary information.

“Mentor Protégé” means the Comptroller of Public Accounts’ leadership program found at: <http://www.window.state.tx.us/procurement/prog/hub/mentorprotege/>.

“Parties” means the System Agency and Contractor, collectively.

“Party” means either the System Agency or Contractor, individually.

“Project” means the goods or Services described in the Signature Document or a Work Order of this Contract.

“Public Information Act” or “PIA” means Chapter 552 of the Texas Government Code.

“Scope of Work” means the description of Services and Deliverables specified in the Contract as may be amended.

“Services” means the tasks, functions, and responsibilities assigned and delegated to Contractor under the Contract.

“Signature Document” means the document executed by both Parties that specifically sets forth all of the documents that constitute the Contract.

“Solicitation” means the document issued by the System Agency under which the goods or services provided under the Contract were initially requested, which is incorporated herein by reference for all purposes in its entirety, including all Amendments and Attachments.

“Solicitation Response” means Contractor’s full and complete response to the Solicitation, which is incorporated herein by reference for all purposes in its entirety, including any Attachments and addenda.

“State Fiscal Year” means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

“State of Texas Texttravel” means Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

“Subcontract” means any written agreement between Contractor and a third party to fulfill the requirements of the Contract. All Subcontracts are required to be in writing.

“Subcontractor” means any individual or entity that enters a contract with the Contractor to perform part or all of the obligations of Contractor under this Contract.

“System Agency” means HHSC or any of the agencies of the State of Texas that are overseen by HHSC under authority granted under State law and the officers, employees, and designees of those agencies. These agencies include: the Department of Aging and Disability Services, the Department of Assistive and Rehabilitative Services, the Department of Family and Protective Services, and the Department of State Health Services.

“Technical Guidance Letter” or “TGL” means an instruction, clarification, or interpretation of the requirements of the Contract, issued by the System Agency to the Contractor.

“Work” means all Services to be performed, goods to be delivered, and any appurtenant actions performed and items produced, conceived, or developed, including Deliverables.

“Work Order” means an individually negotiated document that is executed by both Parties and which authorizes a Project, if any, in an indefinite quantity Contract.

## **1.02 Interpretive Provisions**

- a. The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

- b. The words “hereof,” “herein,” “hereunder,” and similar words refer to this Contract as a whole and not to any particular provision, section, Attachment, or schedule of this Contract unless otherwise specified.
- c. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Contract, (i) references to contracts (including this Contract) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications thereto, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Contract, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.
- d. Any references to “sections,” “appendices,” or “attachments” are references to sections, appendices, or attachments of the Contract.
- e. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Contract are references to these documents as amended, modified, or supplemented from time to time during the term of the Contract.
- f. The captions and headings of this Contract are for convenience of reference only and do not affect the interpretation of this Contract.
- g. All Attachments within this Contract, including those incorporated by reference, and any Amendments are considered part of the terms of this Contract.
- h. This Contract may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative and each will be performed in accordance with its terms.
- i. Unless otherwise expressly provided, reference to any action of the System Agency or by the System Agency by way of consent, approval, or waiver will be deemed modified by the phrase “in its sole discretion.”
- j. Time is of the essence in this Contract.

## **ARTICLE II. CONSIDERATION**

### **2.01 Prompt Payment**

The System Agency will pay Contractor in accordance with the Prompt Payment Act, Texas Government Code, Chapter 2251.

### **2.02 Expenses**

Except as otherwise provided in the Contract, no ancillary expenses incurred by the Contractor in connection with its provision of the Services or Deliverables will be reimbursed by the System Agency. Ancillary expenses include, but are not limited to costs associated with transportation, delivery, and insurance for each Deliverable.

When the reimbursement of travel expenses is authorized by the Contract, all such expenses will be reimbursed in accordance with the rates set by the State of Texas *Texttravel*.

### **2.03 Work Orders**

To the extent the Contract is for indefinite quantities of services, as specified in the Signature Document, all Work will be performed in accordance with Work Orders.

- a. Upon identification of a Project, the System Agency will request that Contractor submit a proposal, including pricing and a project plan, to System Agency.
- b. If Contractor is selected to carry out an individual Project, a Work Order will be issued. Multiple Work Orders may be issued during the term of this Contract, all of which will

be in writing and signed by the Parties. Each Work Order will include a scope of services; a list of tasks required; a time schedule; a list of Deliverables, if any; a detailed Project budget; and such other information or special conditions as may be necessary for the work assigned.

- c. Nothing in this Contract expresses or guarantees that the System Agency will issue Work Orders to Contractor for any of the tasks set forth in the Signature Document. All work requested under this Contract will be required on an irregular and as needed basis throughout the Contract term, and the System Agency makes no guarantee of volume or usage under this Contract.

### **ARTICLE III. STATE AND FEDERAL FUNDING**

#### **3.01 Funding**

This Contract is contingent upon the availability of sufficient and adequate funds. If funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or agencies, amendment of the Texas General Appropriations Act, agency consolidation, or any other disruptions of current funding for this Contract, the System Agency may restrict, reduce, or terminate funding under this Contract. This Contract is also subject to immediate cancellation or termination, without penalty to the System Agency, if sufficient and adequate funds are not available. Contractor will have no right of action against the System Agency if the System Agency cannot perform its obligations under this Contract as a result of lack of funding for any activities or functions contained within the scope of this Contract. In the event of cancellation or termination under this Section, the System Agency will not be required to give notice and will not be liable for any damages or losses caused or associated with such termination or cancellation.

#### **3.02 No debt Against the State**

The Contract will not be construed as creating any debt by or on behalf of the State of Texas.

#### **3.03 Debt to State**

If a payment law prohibits the Texas Comptroller of Public Accounts from making a payment, the Contractor acknowledges the System Agency's payments under the Contract will be applied toward eliminating the debt or delinquency. This requirement specifically applies to any debt or delinquency, regardless of when it arises.

#### **3.04 Recapture of Funds**

The System Agency may withhold all or part of any payments to Contractor to offset overpayments made to the Contractor. Overpayments as used in this Section include payments (i) made by the System Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Contract, including any unapproved expenditures. Contractor understands and agrees that it will be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Contractor further understands and agrees that reimbursement of such disallowed costs will be paid by Contractor from funds which were not provided or otherwise made available to Contractor under this Contract.

## **ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS**

### **4.01 Warranty**

Contractor warrants that all Work under this Contract will be completed in a manner consistent with standards under the terms of this Contract, in the applicable trade, profession, or industry; will conform to or exceed the specifications set forth in the Contract; and will be fit for ordinary use, of good quality, and with no material defects. If Contractor fails to complete Work timely or to perform satisfactorily under conditions required by this Contract, the System Agency may require Contractor, at its sole expense, to:

- a. Repair or replace all defective or damaged Work;
- b. Refund any payment received for all defective or damaged Work and, in conjunction therewith, require Contractor to accept the return of such Work; and
- c. Take the necessary action to ensure that future performance and Work conform to the Contract requirements.

### **4.02 General Affirmations**

Contractor further certifies that, to the extent General Affirmations are incorporated into the Contract under the Signature Document, the General Affirmations have been reviewed and that Contractor is in compliance with each of the requirements reflected therein.

### **4.03 Federal Assurances**

Contractor further certifies that, to the extent Federal Assurances are incorporated into the Contract under the Signature Document, the Federal Assurances have been reviewed and that Contractor is in compliance with each of the requirements reflected therein.

### **4.04 Federal Certifications**

Contractor further certifies, to the extent Federal Certifications are incorporated into the Contract under the Signature Document, that the Federal Certifications have been reviewed, and that Contractor is in compliance with each of the requirements reflected therein. **In addition, Contractor certifies that it is in compliance with all applicable federal laws, rules, or regulations, as they may pertain to this Contract.**

## **ARTICLE V. OWNERSHIP AND INTELLECTUAL PROPERTY**

### **5.01 Ownership**

The System Agency will own, and Contractor hereby assigns to the System Agency, all right, title, and interest in all Work.

### **5.02 Intellectual Property**

- a. To the extent any Work results in the creation of Intellectual Property, all right, title, and interest in and to such Intellectual Property will vest in the System Agency upon creation and will be deemed to be a "work made for hire" and made in the course of the services rendered pursuant to this Contract.
- b. To the extent that title to any such Intellectual Property may not by law vest in the System Agency, or such Intellectual Property may not be considered a "work made for hire," all rights, title, and interest therein are hereby irrevocably assigned to the System Agency. The System Agency will have the right to obtain and to hold in its name any and all patents, copyrights, trademarks, service marks, registrations, or such other protection as may be appropriate to the subject matter, including extensions and renewals thereof.
- c. Contractor must give the System Agency and the State of Texas, as well as any person designated by the System Agency or the State of Texas, all assistance required to perfect



the rights defined herein without any charge or expense beyond the stated amount payable to Contractor for the services authorized under this Contract.

## **ARTICLE VI. RECORDS, AUDIT, AND DISCLOSURE**

### **6.01 Books and Records**

Contractor will keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes. Unless otherwise specified in this Contract, Contractor will maintain legible copies of this Contract and all related documents for a minimum of seven (7) years after the termination of the contract period or seven (7) years after the completion of any litigation or dispute involving the Contract, whichever is later.

### **6.02 Access to records, books, and documents**

In addition to any right of access arising by operation of law, Contractor and any of Contractor's affiliate or subsidiary organizations, or Subcontractors will permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or Services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Contract. If the Contract includes federal funds, federal agencies that will have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that will have a right of access to records as described in this section include: the System Agency, HHSC, HHSC's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office, and any successor agencies. Each of these entities may be a duly authorized authority. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Contractor will produce original documents related to this Contract. The System Agency and any duly authorized authority will have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Contractor will include this provision concerning the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

### **6.03 Response/compliance with audit or inspection findings**

- a. Contractor must act to ensure its and its Subcontractor's compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of the Contract and the goods or services provided hereunder. Any such correction will be at Contractor or its Subcontractor's sole expense. Whether Contractor's action corrects the noncompliance will be solely the decision of the System Agency.
- b. As part of the Services, Contractor must provide to HHSC upon request a copy of those portions of Contractor's and its Subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under the Contract.

#### **6.04 SAO Audit**

Contractor understands that acceptance of funds directly under the Contract or indirectly through a Subcontract under the Contract acts as acceptance of the authority of the State Auditor's Office (SAO), or any successor agency, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the SAO must provide the SAO with access to any information the SAO considers relevant to the investigation or audit. Contractor agrees to cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by Subcontractors through Contractor and the requirement to cooperate is included in any Subcontract it awards.

#### **6.05 Confidentiality**

Any specific confidentiality agreement between the Parties takes precedent over the terms of this section. To the extent permitted by law, Contractor agrees to keep all information confidential, in whatever form produced, prepared, observed, or received by Contractor. The provisions of this section remain in full force and effect following termination or cessation of the services performed under this Contract.

#### **6.06 Public Information Act**

Information related to the performance of this Contract may be subject to the PIA and will be withheld from public disclosure or released only in accordance therewith. Contractor must make all information not otherwise excepted from disclosure under the PIA available in portable document file (".pdf") format or any other format agreed between the Parties.

### **ARTICLE VII. CONTRACT MANAGEMENT AND EARLY TERMINATION**

#### **7.01 Contract Management**

To ensure full performance of the Contract and compliance with applicable law, the System Agency may take actions including:

- a. Suspending all or part of the Contract;
- b. Requiring the Contractor to take specific corrective actions in order to remain in compliance with term of the Contract;
- c. Recouping payments made to the Contractor found to be in error;
- d. Suspending, limiting, or placing conditions on the continued performance of Work;
- e. Imposing any other remedies authorized under this Contract; and
- f. Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.

#### **7.02 Termination for Convenience**

The System Agency may terminate the Contract at any time when, in its sole discretion, the System Agency determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in HHSC's notice of termination.

#### **7.03 Termination for Cause**

Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Contract, in whole or in part, upon either of the following conditions:

##### **a. Material Breach**

The System Agency will have the right to terminate the Contract in whole or in part if the System Agency determines, at its sole discretion, that Contractor has materially breached the Contract or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of Contractor's duties under the Contract. Contractor's misrepresentation in any aspect of Contractor's Solicitation Response, if any, or Contractor's addition to the Excluded Parties List System (EPLS) will also constitute a material breach of the Contract.

**b. Failure to Maintain Financial Viability**

The System Agency may terminate the Contract if, in its sole discretion, the System Agency has a good faith belief that Contractor no longer maintains the financial viability required to complete the Services and Deliverables, or otherwise fully perform its responsibilities under the Contract.

**7.04 Contractor responsibility for associated costs.**

If the System Agency terminates the Contract for Cause, the Contractor will be responsible to the System Agency for all costs incurred by the System Agency and the State of Texas to replace the Contractor. These costs include, but are not limited to, the costs of procuring a substitute vendor and the cost of any claim or litigation that is reasonably attributable to Contractor's failure to perform any Work in accordance with the terms of the Contract.

**7.05 Equitable Settlement**

Any early termination under this Article will be subject to the equitable settlement of the respective interests of the Parties up to the date of termination.

**ARTICLE VIII. MISCELLANEOUS PROVISIONS**

**8.01 Amendment**

The Contract may only be amended by an Amendment executed by both Parties.

**8.02 Insurance**

Unless otherwise specified in this Contract, Contractor will acquire and maintain, for the duration of this Contract, insurance coverage necessary to ensure proper fulfillment of this Contract and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry as determined by the System Agency. Contractor will provide evidence of insurance as required under this Contract, including a schedule of coverage or underwriter's schedules establishing to the satisfaction of the System Agency the nature and extent of coverage granted by each such policy, upon request by the System Agency. In the event that any policy is determined by the System Agency to be deficient to comply with the terms of this Contract, Contractor will secure such additional policies or coverage as the System Agency may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Contractor must produce renewal certificates for each type of coverage.

These and all other insurance requirements under the Contract apply to both Contractor and its Subcontractors, if any. Contractor is responsible for ensuring its Subcontractors' compliance with all requirements.

### **8.03 Legal Obligations**

Contractor will comply with all applicable federal, state, and local laws, ordinances, and regulations, including all federal and state accessibility laws relating to direct and indirect use of information and communication technology. Contractor will be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them. In addition to any other act or omission that may constitute a material breach of the Contract, failure to comply with this Section may also be a material breach of the Contract.

### **8.04 Permitting and Licensure**

At Contractor's sole expense, Contractor will procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or Services required by this Contract. Contractor will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Contractor agrees to be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Contract.

### **8.05 Indemnity**

**TO THE EXTENT ALLOWED BY LAW, CONTRACTOR WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND ITS OFFICERS AND EMPLOYEES, AND THE SYSTEM AGENCY AND ITS OFFICERS AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND LIABILITIES, INCLUDING ATTORNEYS' FEES AND COURT COSTS ARISING OUT OF, OR CONNECTED WITH, OR RESULTING FROM:**

- **CONTRACTOR'S PERFORMANCE OF THE CONTRACT, INCLUDING ANY NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF CONTRACTOR, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- **ANY BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD, RULE, OR BREACH OF CONTRACT BY CONTRACTOR, ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF CONTRACTOR, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- **EMPLOYMENT OR ALLEGED EMPLOYMENT, INCLUDING CLAIMS OF DISCRIMINATION AGAINST CONTRACTOR, ITS OFFICERS, OR ITS AGENTS; OR**
- **WORK UNDER THIS CONTRACT THAT INFRINGES OR MISAPPROPRIATES ANY RIGHT OF ANY THIRD PERSON OR ENTITY BASED ON COPYRIGHT, PATENT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS.**

**CONTRACTOR WILL COORDINATE ITS DEFENSE WITH THE SYSTEM AGENCY AND ITS COUNSEL. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE CONTRACTOR TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING SOLELY FROM THE GROSS NEGLIGENCE OF THE SYSTEM AGENCY OR ITS EMPLOYEES. THE PROVISIONS OF THIS SECTION WILL SURVIVE TERMINATION OF THIS CONTRACT.**

### **8.06 Assignments**

Contractor may not assign all or any portion of its rights under, interests in, or duties required under this Contract without prior written consent of the System Agency, which may be withheld or granted at the sole discretion of the System Agency. Except where otherwise agreed in writing by the System Agency, assignment will not release Contractor from its obligations under the Contract.

Contractor understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. This assignment will only be made to another State agency or a non-state agency that is contracted to perform agency support.

### **8.07 Subcontracts**

Contractor will be responsible to the System Agency for any Subcontractor's performance under this Contract. Nothing in this Contract will be construed to relieve Contractor of the responsibility for ensuring that the goods delivered or services rendered by Contractor or any of its Subcontractors comply with all the terms and provisions of this Contract. Contractor will provide written notification to the System Agency of any Subcontractor receiving compensation of **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)** or more of the Work under this Contract, including the name and taxpayer identification number of Subcontractor, the task(s) being performed, and the number of Subcontractor employees expected to perform Services.

### **8.08 HUB/Mentor Protégé**

In accordance with State law, it is the System Agency's policy to assist HUBs whenever possible in providing goods and services to the System Agency. The System Agency encourages those parties with whom it contracts for the provision of goods and services to adhere to this same philosophy in selecting Subcontractors to assist in fulfilling their obligations with the System Agency. In addition to information required by this Contract, the contracting Party will provide the procurement department of the System Agency with pertinent details of any participation by a HUB in fulfilling the duties and obligations arising hereunder.

The System Agency encourages the Parties it contracts with to partner with certified HUBs that participate in the Texas Comptroller of Public Accounts' Mentor Protégé Program.

### **8.09 Relationship of the Parties**

Contractor is, and will be, an independent contractor and, subject only to the terms of this Contract, will have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract will be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create for the System Agency any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other Party.

Contractor will be solely responsible for, and the System Agency will have no obligation with respect to:

- a. Payment of Contractor's employees for all Services performed;
- b. Ensuring each of its employees, agents, or Subcontractors who provide Services or Deliverables under the Contract are properly licensed, certified, or have proper permits to perform any activity related to the Work;
- c. Withholding of income taxes, FICA, or any other taxes or fees;

- d. Industrial or workers' compensation insurance coverage;
- e. Participation in any group insurance plans available to employees of the State of Texas;
- f. Participation or contributions by the State to the State Employees Retirement System;
- g. Accumulation of vacation leave or sick leave; or
- h. Unemployment compensation coverage provided by the State.

#### **8.10 Technical Guidance Letters**

In the sole discretion of the System Agency, and in conformance with federal and state law, the System Agency may issue instructions, clarifications, or interpretations as may be required during Work performance in the form of a Technical Guidance Letter. A TGL must be in writing, and may be delivered by regular mail, electronic mail, or facsimile transmission. Any TGL issued by the System Agency will be incorporated into the Contract by reference herein for all purposes when it is issued.

#### **8.11 Governing Law and Venue**

This Contract and the rights and obligations of the Parties hereto will be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Contract will be in a court of competent jurisdiction in Travis County, Texas unless otherwise elected by the System Agency. Contractor irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto.

#### **8.12 Severability**

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract will be construed as if such provision did not exist and the non-enforceability of such provision will not be held to render any other provision or provisions of this Contract unenforceable.

#### **8.13 Survivability**

Termination or expiration of this Contract or a Contract for any reason will not release either party from any liabilities or obligations in this Contract that the parties have expressly agreed will survive any such termination or expiration, remain to be performed, or by their nature would be intended to be applicable following any such termination or expiration, including maintaining confidentiality of information and records retention.

#### **8.14 Force Majeure**

Except with respect to the obligation of payments under this Contract, if either of the Parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected Party (collectively referred to as a "Force Majeure"), then, while so prevented, the affected Party's obligation to comply with such covenant will be suspended, and the affected Party will not be liable for damages for failure to comply with such covenant. In any such event, the Party claiming Force Majeure will promptly notify the other Party of the Force Majeure event in writing and, if possible, such notice will set forth the extent and duration thereof.

### **8.15 Dispute Resolution**

If a contract dispute arises that cannot be resolved to the satisfaction of the Parties, either Party may notify the other Party in writing of the dispute. If the Parties are unable to satisfactorily resolve the dispute within fourteen (14) days of the written notification, the Parties must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve the dispute. This provision will not apply to any matter with respect to which either Party may make a decision within its respective sole discretion.

### **8.16 No Waiver of Provisions**

Neither failure to enforce any provision of this Contract nor payment for services provided under it constitute waiver of any provision of the Contract.

### **8.17 Publicity**

Except as provided in the paragraph below, Contractor must not use the name of, or directly or indirectly refer to, the System Agency, the State of Texas, or any other State agency in any media release, public announcement, or public disclosure relating to the Contract or its subject matter, including in any promotional or marketing materials, customer lists, or business presentations.

Contractor may publish, at its sole expense, results of Contractor performance under the Contract with the System Agency's prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.

### **8.18 Prohibition on Non-compete Restrictions**

Contractor will not require any employees or Subcontractors to agree to any conditions, such as non-compete clauses or other contractual arrangements that would limit or restrict such persons or entities from employment or contracting with the State of Texas.

### **8.19 No Waiver of Sovereign Immunity**

Nothing in the Contract will be construed as a waiver of sovereign immunity by the System Agency.

### **8.20 Entire Contract and Modification**

The Contract constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any future document incorporated into the Contract will be harmonized with this Contract to the extent possible by the System Agency.

### **8.21 Counterparts**

This Contract may be executed in any number of counterparts, each of which will be an original, and all such counterparts will together constitute but one and the same Contract.

### **8.22 Proper Authority**

Each Party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract. Any Services or Work performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor with respect to compensation.

### 8.23 Employment Verification

Contractor will confirm the eligibility of all persons employed during the contract term to perform duties within Texas and all persons, including subcontractors, assigned by the contractor to perform work pursuant to the Contract.

### 8.24 Civil Rights

- a. Contractor agrees to comply with state and federal anti-discrimination laws, including:
- (1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*);
  - (2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
  - (3) Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*);
  - (4) Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
  - (5) Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
  - (6) Food and Nutrition Act of 2008 (7 U.S.C. §2011 *et seq.*); and
  - (7) The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Agreement.

Contractor agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.

- b. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Contractor agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
- c. Contractor agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: [http://www.hhsc.state.tx.us/about\\_hhsc/civil-rights/brochures-posters.shtml](http://www.hhsc.state.tx.us/about_hhsc/civil-rights/brochures-posters.shtml)
- d. Contractor agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- e. Upon request, Contractor will provide HHSC Civil Rights Office with copies of all of the Contractor's civil rights policies and procedures.



- f. Contractor must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

HHSC Civil Rights Office  
701 W. 51<sup>st</sup> Street, Mail Code W206  
Austin, Texas 78751  
Phone Toll Free: (888) 388-6332  
Phone: (512) 438-4313  
TTY Toll Free: (877) 432-7232  
Fax: (512) 438-5885.

**GENERAL AFFIRMATIONS  
ATTACHMENT C**

By entering into this Contract, Contractor affirms, without exception, as follows:

1. Contractor represents and warrants that these General Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, Subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract.
2. Contractor represents and warrants that all statements and information provided to the Enterprise Agency are current, complete, and accurate. This includes all statements and information relating in any manner to this Contract and any solicitation resulting in this Contract.
3. Contractor has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract.
4. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that it is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
5. Under Section 2155.006, Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), Contractor certifies that it is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
6. Under Section 2261.053, Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), Contractor certifies that it is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
7. Under Section 231.006, Texas Family Code (relating to delinquent child support), Contractor certifies that it is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
8. Contractor certifies that: (a) the entity executing this Contract; (b) its principals; (c) its Subcontractors; and (d) any personnel designated to perform services related to this Contract are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal Department or Agency. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's Subcontracts if payment in whole or in part is from federal funds.
9. Contractor certifies that it, its principals, its Subcontractors, and any personnel designated to perform services related to this Contract are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity.
10. Contractor certifies it is in compliance with all State of Texas statutes and rules relating to procurement; and that (a) the entity executing this Contract; (b) its principals; (c) its Subcontractors; and (d) any personnel designated to perform services related to this Contract are not listed on the federal government's terrorism watch list described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://www.sam.gov/portal/public/SAM/>, which Contractor may

review in making this certification. Contractor acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate. This provision shall be included in its entirety in Contractor's Subcontracts if payment in whole or in part is from federal funds.

11. In accordance with Texas Government Code Section 669.003 (relating to contracting with the executive head of a state agency), Contractor certifies that it (1) is not the executive head of the Enterprise Agency; (2) was not at any time during the past four years the executive head of the Enterprise Agency; and (3) does not employ a current or former executive head of the Enterprise Agency.
12. Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
13. Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).
14. Contractor represents and warrants that it will comply with Texas Government Code Section 2155.4441, relating to the purchase of products produced in the State of Texas under service contracts.
15. Pursuant to Section 2252.901, Texas Government Code (relating to prohibitions regarding contracts with and involving former and retired state agency employees), Contractor will not allow any former employee of the Enterprise Agency to perform services under this Contract during the twelve (12) month period immediately following the employee's last date of employment at the Enterprise Agency.
16. Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of the Enterprise Agency who during the period of state service or employment participated on behalf of the Enterprise Agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the officer's or employee's service or employment with the Enterprise Agency ceased.
17. Contractor understands that the Enterprise Agency does not tolerate any type of fraud. The Enterprise Agency's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. All employees or contractors who suspect fraud, waste or abuse (including employee misconduct that would constitute fraud, waste, or abuse) are required to immediately report the questionable activity to both the Health and Human Services Commission's Office of the Inspector General at 1-800-436-6184 and the State Auditor's Office. Contractor agrees to comply with all applicable laws, rules, regulations, and Enterprise Agency policies regarding fraud including, but not limited to, HHS Circular C-027.
18. Contractor represents and warrants that it has not violated state or federal antitrust laws and has not communicated its bid for this Contract directly or indirectly to any competitor or any other person engaged in such line of business. Contractor hereby assigns to Enterprise Agency any claims for overcharges associated with this Contract under 15 U.S.C. § 1, *et seq.*, and Texas Business and Commerce Code § 15.01, *et seq.*
19. Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Contractor or any of the individuals or entities included numbered paragraph 1 of these General Affirmations within the five (5) calendar years immediately preceding the execution of this Contract that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to the Enterprise Agency's consideration of entering

into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to the Enterprise Agency a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to the Enterprise Agency's consideration of entering into this Contract. In addition, Contractor represents and warrants that it shall notify the Enterprise Agency in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update the Enterprise Agency shall constitute breach of contract and may result in immediate termination of this Contract.

20. Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.
21. Contractor represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.
22. Contractor represents and warrants that the individual signing this Contract is authorized to sign on behalf of Contractor and to bind Contractor.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

**ATTACHMENT D  
SUPPLEMENTAL & SPECIAL CONDITIONS**

**SUPPLEMENTAL CONDITIONS**

**THE FOLLOWING SUPPLEMENTAL CONDITIONS APPLY TO THIS CONTRACT AND  
MODIFY THE HHS UNIFORM TERMS AND CONDITIONS**

**Section 3.01 Funding, Article III. State and Federal Funding**, is revised to add the following:

- a. SYSTEM AGENCY, at its sole discretion, may adjust the funding amount of Contract based on performance measures, outcome measures, waitlist, and/or other criteria determined by SYSTEM AGENCY. Contingent on availability of funds allocated for the adjustments SYSTEM AGENCY may implement an alternative reimbursement methodology using the rates set forth herein (or using the rates that exist at the time a contract is executed). This alternative methodology may include the use of a case rate based on expected lengths of stay.
- b. Funding for subsequent state fiscal years will be added on or before September 1st of each year and is contingent on the availability of state funds from SYSTEM AGENCY. State fiscal years are defined as September 1st through August 31st.

**Section 6.01, Books and Records, Article VI. Records, Audit, and Disclosure**, is revised to add the following:

- a. If the federal retention period for services that are funded through Medicaid is more than seven years, then the Contractor will retain the records for longer period of time.
- b. Contractor shall retain all records pertaining to this Contract that are the subject of litigation or an audit until the litigation has ended or all questions pertaining to the audit are resolved.
- c. Contractor shall retain medical records in accordance with 22 Texas Administrative Code (TAC) §165.1(b) or other applicable statutes, rules and regulations governing medical information.
- d. Contractor shall include this provision concerning records retention in any subcontract it awards.
- e. Contractor ceases business operations, it shall ensure that records relating to this Contract are securely stored and are accessible by the Department upon Department's request for at least four years from the date Contractor ceases business or from the date this Contract terminates, whichever is sooner.
- f. Contractor shall provide, and update as necessary, the name and address of the party responsible for storage of records to the contract manager assigned to this Contract.

**Section 7.01 Contract Management, Article VII, Contract Management and Early Termination, Subsection e.**, is revised as follows:

- e. imposing any other remedies authorized under this Contract:

The remedies and sanctions in this section are available to the Enterprise Agency against Contractor and any entity that subcontracts with Contractor for provision of services or goods.

Additionally, Health and Human Services Commission (HHSC) Office of Inspector General (OIG) may investigate, audit and impose or recommend imposition of remedies or sanctions to the Enterprise Agency for any breach of this Contract.

The Enterprise Agency may impose one or more remedies or sanctions for each item of noncompliance and shall determine remedies or sanctions on a case-by-case basis if Contractor breaches this Contract by failing to comply with one or more of the terms of this Contract, including but not limited to compliance with applicable statutes, rules or regulations, the Enterprise Agency may take one or more of the following actions:

**ATTACHMENT D  
SUPPLEMENTAL & SPECIAL CONDITIONS**

1. Place Contractor on accelerated monitoring, which means more frequent or more extensive monitoring than ordinarily conducted by Enterprise Agency. Enterprise Agency may allow Contractor the opportunity to correct identified deficiencies prior to imposing other actions stated in this section.
2. Terminate this Contract by one of means provided in Article VII. If applicable, notify Contractor of the opportunity to request a hearing on the termination pursuant to Texas Government Code Chapter 2105 regarding administration of Block Grants;
3. Suspend all or part of this Contract by notifying that the Contractor that Enterprise Agency is temporarily discontinue performance of all or a part of the Contract as provided for in Article VII; as of the effective date of the suspension pending enterprise Agency 's determination to terminate, amend the Contract or permit the Contractor to resume performance. Contractor shall not bill enterprise Agency for services performed during suspension, unless expressly authorized by the notice of suspension;
4. Use as a basis to deny additional or enter into future contracts with Contractor;
5. Temporarily withhold cash payments to Contractor for proper charges or pending resolution of issues of noncompliance with conditions of this Contract or indebtedness to the United States or to the State of Texas;
6. Permanently withhold cash payments by retaining funds billed by Contractor;
7. Request that Contractor be removed from the Centralized Master Bidders List (CMBL) or any other state bid list, and barred from participating in future contracting opportunities with the State of Texas;
8. Declare this Contract void upon the Enterprise Agency's determination that this Contract was obtained fraudulently or was illegal or invalid from this Contract's inception and demand repayment of any funds under this Contract;
9. Delay execution of a new contract or renewal with Contractor while other imposed or proposed sanctions are pending resolution;
10. Demand repayment from Contractor when it has been verified that Contractor has been overpaid for reasons such as payments are not supported by proper documentation or failure to comply with Contract terms;
11. Pursue a claim for damages as a result of breach of contract;
12. Impose liquidated damages. Contractor agrees that noncompliance with the requirements specified in the Program Attachment causes damages to enterprise Agency that are difficult to ascertain and quantify. Contractor further agrees that enterprise Agency may impose liquidated damages of \$250 for the first and second occurrence of noncompliance with the same requirement during a fiscal year; and \$500 for the third and subsequent occurrence(s) of noncompliance with the same requirement during the same fiscal year.
13. Require Contractor to prohibit any employee or volunteer of Contractor from performing under this Contract or having direct contact with enterprise Agency -funded clients or participant, if the employee or volunteer has been indicted or convicted of the misuse of state or federal funds, fraud or illegal acts that are in contraindication to continued obligations under this Contract, as reasonably determined by enterprise Agency;
14. Withhold any payment to Contractor to satisfy any recoupment imposed by enterprise Agency and take repayment from funds available under this Contract in amounts necessary to fulfill Contractor's payment or repayment obligations;
15. Reduce the Contract term;
16. Recoup improper payments when Contractor has been overpaid for reasons such as payments are not supported by proper documentation, improper billing or failure to comply with Contract terms; and
17. Impose any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation or rule.

**Section 7.01 Contract Management, Article VII, Contract Management and Early Termination, is revised to add Subsection g. Notice of Remedies or Sanctions as follows:**

**ATTACHMENT D  
SUPPLEMENTAL & SPECIAL CONDITIONS**

- g. Notice of Remedies or Sanctions:
1. Enterprise Agency shall formally notify Contractor in writing when a remedy or sanction is imposed, stating the nature of the remedies and sanction, the reasons for imposing them, the corrective actions, if any, that must be taken before the actions shall be removed and the time allowed for completing the corrective actions, and the method, if any, of requesting reconsideration of the remedies or sanctions imposed.
  2. Other than in the case of repayment or recoupment, Contractor is required to file, within 10 calendar days of receipt of notice, a written response to Enterprise Agency acknowledging receipt of such notice.
  3. If requested by the Enterprise Agency, the written response must state how Contractor shall correct the noncompliance by agreeing to a corrective action plan or demonstrate in writing that the findings on which the remedies or sanctions are based are either invalid or do not warrant the remedies or sanctions. If Enterprise Agency determines that a remedy or sanction is warranted, unless the remedy or sanction is subject to review under a federal or state statute, regulation, rule, or guideline, Enterprise Agency's decision is final. Enterprise Agency shall provide written notice to Contractor of Enterprise Agency's final decision.
  4. If required by the Enterprise Agency, Contractor shall submit a corrective action plan for Enterprise Agency approval and take corrective action as stated in the plan approved by Enterprise Agency. If Enterprise Agency determines that repayment is warranted, Enterprise Agency shall issue a demand letter to Contractor for repayment. If full repayment is not received within the time limit stated in the demand letter, and if recoupment is available, Enterprise Agency shall recoup the amount due to Enterprise Agency from funds otherwise due to Contractor under this Contract.

**Section 7.03, Termination for Cause, Subsection a. Material Breach, Article VII. Contract Management and Early Termination, is revised to add the following:**

Actions or inactions that constitute breach of contract include, but are not limited to, the following:

- a. Failure to properly provide the services and/or goods purchased under this Contract;
- b. Failure to comply with any provision of this Contract including failure to comply with all applicable statutes, rules or regulations;
- c. Failure to pay refunds or penalties owed to the Department;
- d. Failure to comply with a repayment agreement with Department or agreed order issued by the Department;

**Section 8.24, Civil Rights, subsection b., Article VIII, Miscellaneous Provisions, is revised to add the following:**

- g. Contractor shall identify and document on the client records the primary language/dialect of a client who has limited English proficiency and the need for translation or interpretation services and shall not require a client to provide or pay for the services of a translator or interpreter.
- h. Contractor shall make every effort to avoid use of any persons under the age of 18 or any family member or friend of the client as an interpreter for essential communications with a client with limited English proficiency unless the client has requested that person and using the person would not compromise the effectiveness of services or violate the client's confidentiality and the client is advised that a free interpreter is available.

**SPECIAL CONDITIONS**

**ATTACHMENT D  
SUPPLEMENTAL & SPECIAL CONDITIONS**

**Section 1.01 Notice of Legal Matter or Litigation.**

Contractor shall notify the contract manager assigned to this Contract of any litigation or legal matter related to or affecting this Contract within seven calendar days of becoming aware of the litigation or legal matter.

**Section 1.02 Notice of a Contract Action.**

Contractor shall notify their assigned contract manager assigned to the contract if Contractor has had any contract suspended or terminated for cause by any local, state or federal department or agency or nonprofit entity within five days of becoming aware of the action and include the following:

- a. Reason for such action;
- b. Name and contact information of the local, state or federal department or agency or entity;
- c. Date of the contract;
- d. Date of suspension or termination; and
- e. Contract or case reference number.

**Section 1.03 Notice of Bankruptcy.**

Contractor shall notify in writing their assigned contract manager assigned of its plan to seek bankruptcy protection within five days of such action by Contractor.

**Section 1.04 Notice of Criminal Activity and Disciplinary Actions.**

- a. Contractor shall immediately report in writing their contract manager when the Contractor has knowledge or reason to believe any that they or any person with ownership or controlling interest in the organization/business, or their agent, employee, subcontractor or volunteer that is providing services under this Contract has engaged in any activity that:
  1. Would constitute a criminal offense equal to or greater than a Class A misdemeanor; and
  2. Reasonably would constitute grounds for disciplinary action by a state or federal regulatory authority; or
  3. Has been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime.
- b. Contractor shall not permit any person who engaged, or was alleged to have engaged, in any activity subject to reporting under this section to perform direct client services or have direct contact with clients, unless otherwise directed in writing by SYSTEM AGENCY.

**Section 1.05 Contractor's Notification of Change of Contact Person or Key Personnel.**

Within ten days shall notify in writing the contract manager assigned to the Contract of any change enumerated in the Contractor's Contact Person or Key Personnel.

**Section 1.06 Certification.**

Contractor certifies by execution of this Contract to the following and will include such in all of its subcontracts:

- a. It is not disqualified under 2 CFR § 376.935 or ineligible for participation in federal or state assistance programs;
- b. Neither it, nor its principals, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal or state department or agency in accordance with 2 CFR Parts 376 and 180 (parts A-I), 45 CFR Part 76 (or



**ATTACHMENT D  
SUPPLEMENTAL & SPECIAL CONDITIONS**

- comparable federal regulations);
- c. It has not knowingly failed to pay a single substantial debt or a number of outstanding debts to a federal or state agency;
  - d. It is not subject to an outstanding judgment in a suit against Contractor for collection of the balance of a debt;
  - e. It is in good standing with all state and/or federal agencies that have a contracting or regulatory relationship with Contractor;
  - f. That no person who has an ownership or controlling interest in Contractor or who is an agent or managing employee of Contractor has been convicted of a criminal offense related to involvement in any program established under Medicare, Medicaid, or a federal block grant;
  - g. Neither it, nor its principals have within the three year period preceding this Contract, has been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a private or public (federal, state or local) transaction or contract under a private or public transaction, violation of federal or state antitrust statutes (including those proscribing price-fixing between competitors, allocation of customers between competitors and bid-rigging), or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or false claims, tax evasion, obstruction of justice, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of Contractor or its principals;
  - h. Neither it, nor its principals is presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with the commission of any of the offenses in subsection (g) above; and
  - i. Neither it, nor its principals within a three year period preceding this Contract has had one or more public transaction (federal, state or local) terminated for cause or default.

Where Contractor is unable to certify to any of the statements in this Article, Contractor shall submit an explanation to the contract manager assigned to the Contract. Also, if Contractor's status with respect to the items certified in this Article changes during the term of this Contract, Contractor shall immediately notify the contract manager assigned to the Contract.

**Section 1.07 Disaster Services.**

In the event of a local, state, or federal emergency, including natural, man-made, criminal, terrorist, and/or bioterrorism events, declared as a state disaster by the Governor, or a federal disaster by the appropriate federal official, Contractor may be called upon to assist Enterprise Agency in providing the following services:

- a. Community evacuation;
- b. Health and medical assistance;
- c. Assessment of health and medical needs;
- d. Health surveillance;
- e. Medical care personnel;
- f. Health and medical equipment and supplies;
- g. Patient evacuation;
- h. In-hospital care and hospital facility status;
- i. Food, drug and medical device safety;

**ATTACHMENT D  
SUPPLEMENTAL & SPECIAL CONDITIONS**

- j. Worker health and safety;
- k. Mental health and substance abuse;
- l. Public health information;
- m. Vector control and veterinary services; and
- n. Victim identification and mortuary services.

**Section 1.08 Consent by Non-Parent or Other State Law to Medical Care of a Minor.**

Unless federal law applies, when a Contractor provides medical, dental, psychological or surgical treatment to a minor without parental consent, either directly or through contracts with subcontractors, before the Contractor provides treatment to minor unless informed consent to treatment is obtained pursuant to Texas Family Code Chapter 32.

**Section 1.09 Telemedicine/Telepsychiatry Medical Services.**

If Contractor or its subcontractor uses telemedicine/telepsychiatry, these services shall be in accordance with the Contractor's written procedures and using a protocol approved by Contractor's medical director and uses equipment that complies with the Enterprise Agency equipment standards. Contractor must adhere to TAC Title 22, Part 9, Chapter 174, relating to Telemedicine and any other applicable standards. Contractor's procedures for providing telemedicine service must include the following requirements:

- a. Clinical oversight by Contractor's medical director or designated physician responsible for medical leadership;
- b. Contraindication considerations for telemedicine use;
- c. Qualified staff members to ensure the safety of the individual being served by telemedicine at the remote site;
- d. Safeguards to ensure confidentiality and privacy in accordance with state and federal laws;
- e. Use by credentialed licensed providers providing clinical care within the scope of their licenses;
- f. Demonstrated competency in the operations of the system by all staff members who are involved in the operation of the system and provision of the services prior to initiating the protocol;
- g. Priority in scheduling the system for clinical care of individuals;
- h. Quality oversight and monitoring of satisfaction of the individuals served; and
- i. Management of information and documentation for telemedicine services that ensures timely access to accurate information between the two sites. Telemedicine Medical Services does not include chemical dependency treatment services provided by electronic means under 25 Texas Administrative Code Rule § 448.911.

**Section 1.10 Third Party Payors.**

Except as provided in this Contract, Contractor shall screen all clients and may not bill the Department for services eligible for reimbursement from third party payors, who are any person or entity who has the legal responsibility for paying for all or part of the services provided, including commercial health or liability insurance carriers, Medicaid, or other federal, state, local and private funding sources.

As applicable, the Contractor shall:

- a. Enroll as a provider in Children's Health Insurance Program and Medicaid if providing approved services authorized under this Contract that may be covered by those programs and bill those programs for the covered services;
- b. Provide assistance to individuals to enroll in such programs when the screening process indicates

**ATTACHMENT D  
SUPPLEMENTAL & SPECIAL CONDITIONS**

- possible eligibility for such programs;
- c. Allow clients that are otherwise eligible for Department services, but cannot pay a deductible required by a third party payor, to receive services up to the amount of the deductible and to bill the Department for the deductible;
- d. Not bill the Department for any services eligible for third party reimbursement until all appeals to third party payors have been exhausted;
- e. Maintain appropriate documentation from the third party payor reflecting attempts to obtain reimbursement;
- f. Bill all third party payors for services provided under this Contract before submitting any request for reimbursement to Department; and
- g. Provide third party billing functions at no cost to the client.

**Section 1.11 HIV/AIDS Model Workplace Guidelines.**

Contractor shall implement Department's policies based on the Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS), AIDS Model Workplace Guidelines for Businesses at <http://www.dshs.state.tx.us/hivstd/policy/policies.shtm>, State Agencies and State Contractors Policy No. 090.021.

Contractor shall also educate employees and clients concerning HIV and its related conditions, including AIDS, in accordance with the Texas. Health & Safety Code §§ 85.112-114.

**Section 1.12 Notice of a License Action.**

Contractor shall notify their contract manager of any action impacting its license to provide services under this Contract within five days of becoming aware of the action and include the following:

- a. Reason for such action;
- b. Name and contact information of the local, state or federal department or agency or entity;
- c. Date of the license action; and
- d. License or case reference number.

**Section 1.13 Interim Extension Amendment.**

- a. Prior to or on the expiration date of this Contract, the Parties agree that this Contract can be extended as provided under this Section.
- b. Enterprise Agency/HHSC shall provide written notice of interim extension amendment to the Contractor under one of the following circumstances:
  - 1. Continue provision of services in response to a disaster declared by the governor; or
  - 2. To ensure that services are provided to clients without interruption.
- c. Enterprise Agency will provide written notice of the interim extension amendment that specifies the reason for it and period of time for the extension.
- d. Contractor will provide and invoice for services in the same manner that is stated in the Contract.
- e. An interim extension under Section (b)(1) above shall extend the term of the contract not longer than 30 days after governor's disaster declaration is declared unless the Parties agree to a shorter period of time.
- f. An interim extension under Section (b) (2) above shall be a one-time extension for a period of time determined by HHS/Enterprise Agency.

**Section 1.14 Electronic and Information Resources Accessibility and Security Standards.**

**ATTACHMENT D  
SUPPLEMENTAL & SPECIAL CONDITIONS**

a. **Applicability.**

The following Electronic and Information Resources (EIR) requirements apply to the Contract because the Contractor performs services that include EIR that Enterprise Agency employees are required or permitted to access or members of the public are required or permitted to access.

This Section does not apply to incidental uses of EIR in the performance of the Agreement, unless the Parties agree that the EIR will become property of the State of Texas or will be used by HHSC's clients or recipients after completion of the Agreement.

Nothing in this section is intended to prescribe the use of particular designs or technologies or to prevent the use of alternative technologies, provided they result in substantially equivalent or greater access to and use of a Product.

b. **Definitions.**

For purposes of this Section:

**"Accessibility Standards"** means accessibility standards and specifications for Texas agency and institution of higher education websites and EIR set forth in 1 TAC Chapter 206 and/or Chapter 213.

**"Electronic and Information Resources"** means information resources, including information resources technologies, and any equipment or interconnected system of equipment that is used in the creation, conversion, duplication, or delivery of data or information. The term includes telephones and other telecommunications products, information kiosks, transaction machines, Internet websites, multimedia resources, and office equipment, including copy machines and fax machines.

**"Electronic and Information Resources Accessibility Standards"** means the accessibility standards for electronic and information resources contained in 1 Texas Administrative Code Chapter 213.

**"Product"** means information resources technology that is, or is related to EIR.

**"Web Site Accessibility Standards/ Specifications"** means standards contained in Volume 1 Tex. Admin. Code Chapter 206(c) Accessibility Requirements.

Under Tex. Gov't Code Chapter 2054, Subchapter M, and implementing rules of the Texas Department of Information Resources, Enterprise Agency must procure Products and services that comply with the Accessibility Standards when those Products are available in the commercial marketplace or when those Products are developed in response to a procurement solicitation. Accordingly, Contractor must provide electronic and information resources and associated Product documentation and technical support that comply with the Accessibility Standards.

c. **Evaluation, Testing, and Monitoring.**

1. Enterprise Agency may review, test, evaluate and monitor Contractor's Products and services, as well as associated documentation and technical support for compliance with the Accessibility Standards. Review, testing, evaluation and monitoring may be conducted before and after the award of a contract. Testing and monitoring may include user acceptance testing. Neither the review, testing (including acceptance testing), evaluation or monitoring of any Product or service, nor the absence of review, testing, evaluation or monitoring, will result in a waiver of the

**ATTACHMENT D  
SUPPLEMENTAL & SPECIAL CONDITIONS**

- State's right to contest the Contractor's assertion of compliance with the Accessibility Standards.
2. Contractor agrees to cooperate fully and provide Enterprise Agency and its representatives timely access to Products, records, and other items and information needed to conduct such review, evaluation, testing, and monitoring.
- d. Representations and Warranties.
1. Contractor represents and warrants that:
    - i. As of the Effective Date of the Contract, the Products and associated documentation and technical support comply with the Accessibility Standards as they exist at the time of entering the Agreement, unless and to the extent the Parties otherwise expressly agree in writing; and
    - ii. If the Products will be in the custody of the state or an Enterprise Agency client or recipient after the Contract expiration or termination, the Products will continue to comply with Accessibility Standards after the expiration or termination of the Contract Term, unless Enterprise Agency or its clients or recipients, as applicable, use the Products in a manner that renders it noncompliant.
  2. In the event Contractor becomes aware, or is notified that the Product or service and associated documentation and technical support do not comply with the Accessibility Standards, Contractor represents and warrants that it will, in a timely manner and at no cost to Enterprise Agency, perform all necessary steps to satisfy the Accessibility Standards, including remediation, replacement, and upgrading of the Product or service, or providing a suitable substitute.
  3. Contractor acknowledges and agrees that these representations and warranties are essential inducements on which Enterprise Agency relies in awarding this Contract.
  4. Contractor's representations and warranties under this subsection will survive the termination or expiration of the Contract and will remain in full force and effect throughout the useful life of the Product.

**Section 1.15 Notice of IRS or TWC Insolvency.**

Contractor shall notify in writing their assigned contract manager their insolvency, incapacity or outstanding unpaid obligations to the Internal Revenue Service (IRS) or Texas Workforce Commission within 5 days of the date of becoming aware of such.

**Section 1.16 Reporting Abuse, Neglect, or Exploitation.**

All Contractors shall promptly report any suspected case of abuse, neglect, or exploitation to the appropriate authority as required by the Texas Family Code, Chapter 261. All reports must be made within twenty-four (24) hours of the discovery of abuse, neglect, or exploitation.

Contractor shall develop, implement and enforce a written policy that includes at a minimum the Department's Child Abuse Screening, Documenting, and Reporting Policy for Contractors/Providers and train all staff on reporting requirements.

Contractor shall use the SYSTEM AGENCY Child Abuse Reporting Form located at [www.dshs.state.tx.us/childabusereporting](http://www.dshs.state.tx.us/childabusereporting) as required by the Department. Contractor shall retain reporting documentation on site and make it available for inspection by SYSTEM AGENCY.

This section is in addition to and does not supersede any other legal obligation of the Contractor to report

**ATTACHMENT D  
SUPPLEMENTAL & SPECIAL CONDITIONS**

child abuse.

Local Mental Health Authorities shall comply with the Texas Administrative Code, Chapter 414, Subchapter L. This includes, but is not limited to:

- a. Amending their contracts to ensure contractors' compliance with this subchapter.
- b. Implementing policies and procedures addressing disciplinary and other action in confirmed cases of abuse, neglect, and exploitation involving employees and agents, in accordance with Section 414.557.
- c. Ensuring that a Client Abuse and Neglect Reporting form (AN-1-A) is completed within 14 calendar days of the receipt of the investigative report from the Department of Family and Protective Services or a decision made after review or appeal using the CANRS Definitions and the CANRS Classifications, when the perpetrator or alleged perpetrator is an employee or agent of the local mental health authority, community center, or contractor, or if the perpetrator is unknown.
- d. Ensuring, within one working day after completion of the AN-1-A form, that:
  1. The information contained in the completed AN-1-A form is entered into the Client Abuse and Neglect Reporting System (CANRS); or
  2. If access to CANRS is unavailable, a copy of the completed AN-1-A form is forwarded for data entry to the Office of Consumer Services and Rights Protection—Ombudsman, P.O. Box 12668, Austin, TX 78711-2668

**Section 1.17 Client Rights.**

- a. Contractor shall comply with Texas Administrative Code Title 25, Part 1, Chapter 448, Subsection G, Rule §448.701, "Client Rights."
- b. Contractor shall comply with Human Resources Code, Section 48.253, requiring a provider to:
  1. Cooperate completely with an investigation of alleged abuse, neglect, or exploitation conducted by the Department of Family and Protective Services.
  2. Provide complete access to the Department of Family and Protective Services during an investigation to:
    - i. All sites owned, operated, or controlled by the provider; and
    - ii. Clients and client records.