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INTERLOCAL COOPERATION CONTRACT
HEALTH AND HUMAN SERVICES COMMISSION
CONTRACT NO. HHS000808200020

The Health and Human Services Commission ("**System Agency**"), and Camino Real Community Services ("**Local Government**" or "**Grantee**"), a Community Mental Health Center as defined by Texas Health and Safety Code Section 534.001 (each a "**Party**" and collectively the "**Parties**"), enter into the following grant contract to expand local inpatient capacity in response to the novel coronavirus ("**COVID-19**") pandemic pursuant to the provisions of the "Interlocal Cooperation Act," Chapter 791 of the Texas Government Code.

I. PARTIES

System Agency	Local Government
Name: Health and Human Services Commission	Name: Camino Real Community Services
Address: 4900 North Lamar Boulevard	Address: 19965 FM 3175 N.
City, State and Zip: Austin, TX 78751	City, State and Zip: Lytle, TX 78052
Contact Person: Debra Woodruff, Contract Manager	Contact Person: Emma C. Garcia, Executive Director
E-Mail Address: debra.woodruff@hhsc.state.tx.us	E-Mail Address: emmag@caminorealcs.org
Agency Number: 35295295295	Agency Number: 17429517547

II. STATEMENT OF SERVICES TO BE PROVIDED

The Parties agree to cooperate to provide necessary and authorized services and resources in accordance with the terms of this Contract. Specific services provided are described in **Attachment A – Statement of Work**.

III. CONTRACT PERIOD AND RENEWAL

The Contract is effective on the signature date of the latter of the Parties to sign this agreement and terminates on December 31, 2020, unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. The Parties may extend this Contract subject to mutually agreeable terms and conditions.

IV. AMENDMENT

The Parties to this Contract may modify this contract only through the execution of a written amendment signed by the Parties.

V. CONTRACT AMOUNT AND PAYMENT FOR SERVICES

The total amount of this Contract, including all Work Orders issues under it, shall not exceed $76,767.00, as provided for in **Attachment A – Statement of Work**.

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VI. LEGAL NOTICES

Legal Notices under this Contract shall be deemed delivered when deposited 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
Health and Human Services Commission
Brown-Heatly Building
4900 N. Lamar Blvd.
Austin, TX 78751-2316
P.O. Box 13247
Attention: General Counsel

Local Government
Camino Real Community Services
19965 FM 3175 N.
Lytle, TX 78052
Attention: Emma C. Garcia

Notice given in any other manner shall be deemed effective only if and when received by the Party to be notified. Either Party may change its address for receiving legal notice by notifying the other Party in writing.

VII. CERTIFICATIONS

The undersigned contracting parties certify that:

(1) the services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of state government;

(2) Each Party executing this Contract on its behalf has full power and authority to enter into this Contract.

(3) the proposed arrangements serve the interest of efficient and economical administration of state government; and

(4) the services contracted for are not required by Section 21, Article XVI of the Constitution of Texas to be supplied under a contract awarded to the lowest responsible bidder.

The System Agency further certifies that it has statutory authority to contract for the services described in this contract under Health and Safety Code Section §12.051 as transferred under Texas Government Code Chapter 531.

The Local Government further certifies that it has statutory authority to contract for the services described in this contract under Chapter 791 of the Texas Government Code.

SIGNATURE PAGE FOLLOWS

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SIGNATURE PAGE FOR SYSTEM AGENCY
CONTRACT NO. HHS000808200020

HEALTH AND HUMAN SERVICES COMMISSION	CAMINO REAL COMMUNITY SERVICES
By: DocuSigned by: Trina Ita 97DC84070502414...	By: DocuSigned by: Emma C. Garcia 1D8A9896231B418...
Printed Name: Trina Ita	Printed Name: Emma C. Garcia
Title: Associate Commissioner	Title: Executive Director
Date of Signature: August 12, 2020	Date of Signature: August 12, 2020

THE FOLLOWING ATTACHMENTS ARE HEREBY INCORPORATED INTO THE CONTRACT BY REFERENCE:

ATTACHMENT A -	**STATEMENT OF WORK**
ATTACHMENT B -	**UNIFORM TERMS AND CONDITIONS**
ATTACHMENT C -	**SPECIAL CONDITIONS**
ATTACHMENT D -	**DATA USE AGREEMENT**
EXHIBIT A -	**COVID-19 EXPENDITURES FOR PRIVATE PSYCHIATRIC BEDS**
EXHIBIT B -	**REPORT OF OUTCOME OF INVESTIGATION OF DEATH, ABUSE, NEGLECT, EXPLOITATION, OR ILLEGAL, UNETHICAL OR UNPROFESSIONAL CONDUCT**
EXHIBIT E -	**PSYCHIATRIC EMERGENCY FLOW CHART**
EXHIBIT F -	**DAILY UTILIZATION REPORT**

ATTACHMENTS FOLLOW

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ATTACHMENT A
STATEMENT OF WORK

GRANTEE: CAMINO REAL COMMUNITY SERVICES

SECTION I. GRANTEE RESPONSIBILITIES:

A. GENERAL:

1. Grantee shall expend funds allocated under this Contract on the provision of inpatient mental health services located at a licensed psychiatric hospital (the Hospital).

2. Grantee shall require the Hospital to provide Grantee with evidence that it maintains, throughout the term of this Contract, a license as a private psychiatric hospital in accordance with Chapter 577 of the Texas Health and Safety Code and with 26 Texas Administrative Code Chapter 510, concerning Private Psychiatric Hospitals and Crisis Stabilization Units, or a General or Special Hospital in accordance with Chapter 241 of the Texas Health and Safety Code and with 25 Texas Administrative Code Chapter 133, concerning Hospital Licensing.

3. Grantee shall require the Hospital to provide Grantee with evidence that it maintains its accreditation with The Joint Commission (TJC), or other accrediting body granted deeming authority by the Centers for Medicare and Medicaid Services (CMS), as a hospital throughout the term of this Contract.

4. Grantee shall designate a point of contact who shall be responsible for all communication, correspondence, and reporting to the Health and Human Services Commission (HHSC) and who must accompany HHSC personnel on all site visits scheduled with the Hospital.

5. Grantee shall require the Hospital to notify Grantee no later than 90 days prior to discontinuing the provision of inpatient mental health services at the Hospital.

6. If Grantee determines that the safety and well-being of patients served by the Hospital is in jeopardy, Grantee shall arrange the transfer of patients to another hospital that meets the requirements outlined in Section I.A.2. and 3. of this Statement of Work and shall notify HHSC immediately.

7. Funds allocated and paid under this Contract, together with any available third-party insurance, indigent care programs, or other local medical care programs, must cover the costs for all medical care and treatment including the cost of psychiatric and physician services and all non-prescription and prescription medications (including discharge medications) incurred by or on behalf of patients admitted to the Hospital. This includes all on-site medical care and treatment, as well as all outside medical care and treatment, emergency room and hospitalization costs, as well as any and all charges by specialists, consultants, and laboratories, incurred by or on behalf of patients admitted. No additional HHSC funds will be made available for this purpose.

8. Grantee shall not use funds allocated under this Contract to pay the cost of services provided to patients admitted to the Hospital who do not meet the requirements specified in Section B

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of this Statement of Work.

9. HHSC will evaluate demand and utilization based upon occupancy within the county(ies) served. If HHSC determines that demand and utilization within the county(ies) served does not align with the total amount allocated to Grantee under this Contract, then, with 90 days' notice, HHSC may reduce, or increase funding to address statewide need.

B. CAPACITY AND PATIENTS SERVED:

1. Grantee shall use funding to purchase psychiatric inpatient services as needed through December 31, 2020, in response to the COVID-19 pandemic. Grantee is funded to purchase 100 bed days at a rate not to exceed $770.00 per day (these figures are based on rounded numbers) for a total funding amount not to exceed $76,767.00.

2. The primary service area for patients served under this Statement of Work includes the following counties: Atascosa; Dimmit; Frio; Karnes; La Salle; Maverick; McMullen; Wilson; Zavala

3. Grantee shall work with HHSC on the capacity management program for State Mental Health Facilities (SMHF). As part of the capacity management program, HHSC may request access to beds purchased under this Statement of Work to assist with SMHF diversion activities. If capacity is available within the Hospital, then HHSC may attempt to divert admissions from SMHFs to the Hospital. Individuals diverted may be from outside of Grantee's primary local service area. Grantee shall evaluate these individuals for admission and serve them with funds allocated as part of this Statement of Work.

4. Grantee shall also provide a point(s) of contact who will be responsible for communication, correspondence, and reporting to HHSC during and after business hours. Grantee shall respond to capacity management contacts initiated by HHSC within one (1) hour.

5. Grantee shall require the Hospital to serve patients who present either voluntarily or through the civil commitment process.

6. Grantee shall serve as the gatekeeper for patients served under this Contract and shall establish a process for approving patient admissions to, and continued stay at, the Hospital. This process must incorporate provisions that allow the Hospital to conduct medical screening evaluations, make medical condition determinations, and admit individuals who either present voluntarily or through the civil commitment process.

7. A patient is not eligible for admission to the Hospital if the patient is adjudicated incompetent to stand trial pursuant to Texas Code of Criminal Procedure, Article 46B.073(d), Article 46B.080, or Article 46B.102, or if pending charges make the patient eligible for maximum security admission pursuant to Texas Code of Criminal Procedure, Article 46B.073(c) or Article 46B.104.

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C. COMPLIANCE WITH APPLICABLE LAW:

Grantee shall require the Hospital to comply with all applicable state and federal laws and regulations related to:

1. The provision of inpatient mental health services, including, but not limited to:
   a. Emergency Medical Treatment and Labor Act of 1986;
   b. Texas Health and Safety Code Chapters 241, 571, 575, 576, and 577; and
   c. Title 25 Texas Administrative Code:
      1) Chapter 133 (relating to Hospital Licensing)
      2) Chapter 404, Subchapter E (relating to Rights of Persons Receiving Mental Health Services);
      3) Chapter 405, Subchapter E (relating to Electroconvulsive Therapy);
      4) Chapter 411, Subchapter J (relating to Standards of Care and Treatment in Psychiatric Hospitals);
      5) Chapter 414, Subchapter I (relating to Consent to Treatment with Psychoactive Medication – Mental Health Services); and
      6) Chapter 415, Subchapter F (relating to Interventions in Mental Health Programs).
   d. Title 26 Texas Administrative Code:
      1) Chapter 510 (relating to Private Psychiatric Hospitals and Crisis Stabilization Units).

2. Medications and medication-related services provided to patients served under this Contract as specified in Title 25 Texas Administrative Code, Chapter 415 C (relating to Use and Maintenance of TDMHMR Drug Formulary)

3. In addition to the reporting requirements outlined in Title 26 Texas Administrative Code Chapter 510 (relating to Private Psychiatric Hospitals and Crisis Stabilization Units), Grantee shall report the investigation disposition of all reports of death, abuse, neglect, exploitation, or illegal, unethical or unprofessional conduct using Exhibit B (Report of Outcome of Investigation of Death, Abuse, Neglect, Exploitation, or Illegal, Unethical or Unprofessional Conduct Form).

D. OVERSIGHT REQUIREMENTS:

Grantee shall:

1. Develop written oversight policies and procedures, by which Grantee and the Hospital will:
   a. manage the admission, service delivery, continuity of care and discharge requirements outlined in Section F of this Statement of Work,
   b. coordinate with other local mental health authorities (LMHAs) affected by this Contract, and
   c. report to HHSC in accordance with the terms and conditions of this Contract.

2. Develop and enter into written agreements with other LMHAs affected by this Contract, if applicable, that specify the processes by which patients are to be admitted, served and discharged, and how services are reported in accordance with the terms and conditions of this Contract.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

E. DATA COLLECTION AND REPORTING

1. Grantee shall develop and use a local reporting unit that will provide an assigned location for all clients served within the Hospital. This information shall also be entered into CARE when reporting on beds utilized at the Hospital.

2. Grantee shall budget and report expenditure data on the Client Assignment and Registration (CARE) Report III within the Community Hospital Strategy C.2.1.1 using line 764 - Project Private Beds. The template for submission of CARE Report III, which is hereby incorporated by reference, can be found at:
https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/behavioral-health-provider-resources/community-mental-health-contracts

3. Grantee shall complete and submit Exhibit A (COVID-19 Expenditures for Private Psychiatric Beds) on or before January 31, 2021.

4. If Grantee currently has infrastructure in place to support facility-based reporting via CARE, then Grantee shall ensure that patient registration, diagnostics, admission and discharge data is reported by using the CARE screens and action codes listed below. If Grantee does not currently have infrastructure in place to support facility-based reporting via CARE, then CARE reporting is not required. For details related to the use of CARE screens and action codes, Grantee can refer to the CARE Reference Manual, which is incorporated by reference, and can be found under the CARE (WebCARE) section on the portal at the link below.

   https://hhsportal.hhs.state.tx.us/helpGuide/Content/16_CARE/CAREWebCARE%20Reference%20Manual.htm

   a. Screen: Campus-Based Assignments (Add/Change/Delete), Action Code: 305;
   b. Screen: Campus-Based Discharge/Community Placement (Add/Change/Delete), Action Code: 310;
   c. Screen: Joint Community Support Plan (Add/Change/Delete), Action Code: 312;
   d. Screen: Register Client, Action Code: 325;
   e. Screen: Diagnostics (Add/Change/Delete), Action Code: 330;
   f. Screen: Voluntary Admission and Commitment (Add/Change/Delete), Action Code 332;
   g. Screen: Campus-Based Residential Ward/Dorm (Add/Change/Delete), Action Code 615; and
   h. Screen: MH Bed Allocation Exception (Add/Change/Delete), Action Code 345.

F. ADMISSION, CONTINUITY OF CARE, AND DISCHARGE REQUIREMENTS

1. Grantee shall ensure that the Hospital provides a full array of services that comply with the following principles for treatment:
   a. Follow the steps outlined in Exhibit E (Psychiatric Emergency Flow Chart)
   b. Apply the following Appropriate-Use and Medical Clearance criteria:
      1) Individuals under consideration for referral to the Hospital must meet the criteria in the Texas Health and Safety Code Chapters 571-576 applicable to voluntary admission or the civil commitment process;

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2) Acute and Chronic Medical Condition Criteria: The presence of any of the following represent acute or chronic medical conditions that the Hospital does not have the capability to treat and so, in accordance with the Emergency Medical Treatment & Labor Act (EMTALA) and state law, the Hospital will provide evaluation and treatment within its capability to stabilize the person and will arrange for the person to be transferred to a hospital that has the capability to treat the condition:
   a) Medical Emergency Indicators, including:
      i. Overdose;
      ii. Chest pain;
      iii. Fluctuating consciousness;
      iv. Stab wound, bleeding, or serious injury;
      v. Seizure activity;
      vi. Complications from Diabetes;
      vii. Injured in assault or flight;
      viii. Victim of a sexual assault; or
      ix. Resident of a nursing home or assisted living facility.
   b) Acute Medical Conditions, including:
      i. Acute overdose resulting in any vital sign instability in the prior 24 hours;
      ii. Acute drug intoxication (blood alcohol level over 0.1);
      iii. Unconscious or fluctuating consciousness;
      iv. Delirium, including substance induced syndromes;
      v. Uncontrolled seizure activity;
      vi. Recent trauma that has not received medical evaluation, including fractures, lacerations, burns, head trauma, and bleeding;
      vii. Recent assault or fight that has not received medical evaluation;
      viii. Recent sexual assault that has not received medical evaluation;
      ix. Blood pressure greater than 160/110;
      x. Pulse less than 50, or any symptomatic bradycardia, in the prior 24 hours;
      xi. Pulse greater than 120 in the prior 24 hours;
      xii. Temperature above 101° F;
      xiii. White blood count (WBC) greater than 15,000;
      xiv. Hemoglobin (HGB) less than 10;
      xv. Hematocrit (HCT) less than 30;
      xvi. Any abnormal electrolytes;
      xvii. Creatinine phosphokinase (CPK) greater than 1500; or, CPK greater than 1000 with elevated temperature and muscular rigidity;
      xviii. Serum glucose below 70 or over 400 during the prior 48 hours;
      xix. Acute O2 saturation below 90%;
      xx. Chest pain;
      xxi. Shortness of breath;
      xxii. Unstable arrhythmia;
      xxiii. Pulmonary edema;
      xxiv. Acute congestive heart failure;
      xxv. Acute respiratory distress syndrome;
      xxvi. Acute asthma;
      xxvii. Acute cardiovascular accident;
      xxviii. Acute CNS trauma;
      xxix. Gastrointestinal (GI) bleeding during the prior 48 hours;

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

xxx. Requires indwelling tubing (for example, a nasogastric tube);
xxxi. Post-op instability, demonstrated as any instability in vital signs or laboratory values in the prior 48 hours; or
xxxii. Open wounds and/or wounds requiring sterile equipment to manage.

c) Chronic Medical Conditions, including individuals who:
i. Require specialized cancer care, including radiation or chemotherapy;
ii. Required medical care from a nursing home prior to admission;
iii. Require care for decubiti – Stage 3-4;
iv. Require blood or blood product transfusions;
v. Require continuous oxygen, oximetry, or support equipment (CPCPs, BiPAPs, O2 concentrators);
vi. Are being treated for active tuberculosis (TB);
vii. Require isolation for the purpose of infection control;
viii. Require on-going intravenous (IV) therapy;
ix. Have a subclavian line, arterial line, or require hyperalimentation or total parenteral nutrition (TPN);
x. Require suctioning;
xi. Require peritoneal or hemodialysis treatments;
xii. Require complex care or sterile equipment for managing the care of wounds
xiii. Require tracheotomy care and have a chronic condition that causes non-ambulation to an extent to preclude the engagement in treatment programming;
xiv. Are considered a high-risk pregnancy;
xv. Have a multiparous pregnancy; or
xvi. Are pregnant and at 38-weeks' gestation or later.

c. Effective, responsive, individualized, and least restrictive treatment
d. Treatment and care through the development and implementation of a Comprehensive Treatment Plan and corresponding intervention(s) including but not limited to:
1) A reasonable and appropriate discharge plan that is jointly developed by the Grantee and the Hospital; and
2) Communication that will facilitate the exchange of information needed to accomplish common utilization management activities.
e. Promotion of recovery, independence, and self-sufficiency;
f. Adherence to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rules;
g. Comprehensive client/patient rights consistent with regulatory and TJC requirements;
h. Interdisciplinary, goal-directed and evidence-based treatment;
i. Behavior management program;
j. Culturally competent treatment; and
k. Telemedicine provided in accordance with applicable rules and regulations.

2. Grantee shall ensure that the Hospital demonstrates efforts to reduce restraint and seclusion by adopting and implementing the following restraint/seclusion reduction tools:
a. Using assessment tools to identify risk factors for violence and seclusion and restraint history;
b. Using a trauma assessment;
c. Using tools to identify persons with risk factors for death and injury;
d. Using de-escalating or safety surveys; and

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e. Making environmental changes to include comfort and sensory rooms and other meaningful clinical interventions that assist people in emotional self-management.

3. Grantee shall ensure that the Hospital complies with the following standards regarding Admission, Continuity of Care and Discharge:
   a. The Hospital must not allow admissions without Grantee approval;
   b. When the Hospital admits a patient, a physician must issue and sign a written order admitting the patient;
   c. The Hospital must conduct an intake process as soon as possible, but not later than 24 hours after the patient is admitted;
   d. When the Hospital admits a patient, the Hospital must promptly notify Grantee of the admission and the admission status;
   e. Upon admission of a patient to the Hospital, the Hospital and Grantee must begin discharge planning for the patient;
   f. Discharge planning must involve the Hospital treatment team, Grantee liaison staff or other Grantee designated staff, the designated Local Intellectual and Developmental Disability Authority (LIDDA) liaison staff, if appropriate, the patient, the patient's legally authorized representative (LAR), if any, and any other individual authorized by the patient;
   g. Discharge planning must include, at a minimum, the following activities:
      1) A determination of the following:
         a) The amount of medication that will be provided upon discharge or transfer, and the amount of medication the patient will need after discharge or transfer until the patient is evaluated by a physician; and
         b) The name of the individual or entity responsible for providing and paying for the medication needed after discharge or transfer until the patient is evaluated by a physician; and
      2) Development of a transportation plan.

SECTION II. PERFORMANCE MEASURES:

The terms and conditions of this Contract and the following performance measures will be used to assess Grantee's effectiveness in providing the services described in this Statement of Work:

A. Grantee shall submit to HHSC the name of the designated point(s) of contact who will be responsible for communication, correspondence, and reporting to HHSC during and after business hours no later than 15 days after this Contract is executed.

B. Grantee shall complete and submit CARE Report III in accordance with Information Item D and submission timelines as outlined in Information Item S of the HHSC Performance Contract. Information Items D and S are incorporated by reference, and can be found at: https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/behavioral-health-provider-resources/community-mental-health-contracts

C. Grantee shall report on the daily utilization of beds using a Grantee-developed and HHSC-approved format, or by submitting Exhibit F (Daily Utilization Report) each business day by 10:00AM via email to Performance.Contracts@hhsc.state.tx.us with a copy to the HHSC Private Psychiatric Hospital subject matter expert.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

D. Grantee shall send all reports, documentation, and other information required of Grantee by this Statement of Work to the address listed below. Where electronic submission is determined acceptable by HHSC, Grantee shall electronically send all reports, documentation, and other information required of Grantee to the Performance.Contracts@hhsc.state.tx.us email address, as well as to the assigned HHSC Contract Manager.

Health and Human Services Commission
Contract Management Unit (Mail Code 2058)
909 West 45th Street, Austin, TX 78751
P.O. Box 149347, Austin, TX 78714-9347
Fax: (512) 206-5307

SECTION III. PAYMENT METHOD:

HHSC will issue one lump sum payment to Grantee upon execution of the Contract. Funds paid under this Contract that have not been paid or otherwise encumbered to support payment for services provided during the Contract term, must be returned to HHSC within on or before February 15, 2021.

SECTION IV. USE OF FUNDS

The amount expended by Grantee for administration of the provision of services under this Statement of Work must not exceed 10% of the total amount paid. All other funds paid must be used for the provision of inpatient mental health services located at the Hospital.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

ATTACHMENT B

HHSC Uniform Terms and Conditions Version 2.16
Published and Effective: March 26, 2019
Responsible Office: Chief Counsel

TEXAS
Health and Human Services

Health and Human Services Commission

HHSC Uniform Terms and Conditions - Grant

Version 2.16.1

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

TABLE OF CONTENTS

ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS 4
1.1 Definitions 4
1.2 Interpretive Provisions 6
ARTICLE II. PAYMENT METHODS AND RESTRICTIONS 6
2.1 Payment Methods 6
2.2 Final Billing Submission 7
2.3 Financial Status Reports (FSRs) 7
2.4 Use of Funds 7
2.5 Use for Match Prohibited 7
2.6 Program Income 7
2.7 Nonsupplanting 8
2.8 Allowable Costs 8
2.9 Indirect Cost Rates 8
ARTICLE III. STATE AND FEDERAL FUNDING 8
3.1 Funding 8
3.2 No Debt Against the State 8
3.3 Debt and Delinquencies 8
3.4 Recapture of Funds 8
ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS 9
4.1 Allowable Costs. 9
4.2 Audits and Financial Statements 10
4.3 Submission of Audits and Financial Statements 11
ARTICLE V. AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS 11
5.1 General Affirmations 11
5.2 Federal Assurances 11
5.3 Federal Certifications 11
ARTICLE VI. INTELLECTUAL PROPERTY 11
6.1 Ownership of Work Product 11
6.2 Grantees Pre-existing Works 12
6.3 Agreements with Employees and Subcontractors 12
6.4 Delivery Upon Termination or Expiration 12
6.5 Survival 12

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

ARTICLE VII. RECORDS, AUDIT, AND DISCLOSURE 13
7.1 Books and Records 13
7.2 Access to Records, Books, and Documents 13
7.3 Response/Compliance with Audit or Inspection Findings 13
7.4 SAO Audit 14
7.5 Confidentiality 14
ARTICLE VIII. CONTRACT MANAGEMENT AND EARLY TERMINATION 14
8.1 Contract Remedies 14
8.2 Termination for Convenience 14
8.3 Termination for Cause 14
ARTICLE IX. MISCELLANEOUS PROVISIONS 15
9.1 Amendment 15
9.2 Insurance 15
9.3 Legal Obligations 15
9.4 Permitting and Licensure 16
9.5 Indemnity 16
9.6 Assignments 16
9.7 Independent Contractor 17
9.8 Technical Guidance Letters 17
9.9 Dispute Resolution 17
9.10 Governing Law and Venue 17
9.11 Severability 17
9.12 Survivability 18
9.13 Force Majeure 18
9.14 No Waiver of Provisions 18
9.15 Publicity 18
9.16 Prohibition on Non-compete Restrictions 19
9.17 No Waiver of Sovereign Immunity 19
9.18 Entire Contract and Modification 19
9.19 Counterparts 19
9.20 Proper Authority 19
9.21 E-Verify Program 19
9.22 Civil Rights 19
9.23 System Agency Data 21

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.1 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, which documents changes to the Contract other than those permitted by Work Orders or Technical Guidance Letters.

"Attachment" means documents, terms, conditions, or information added to this Contract following the Signature Document or included by reference, and made a part of this Contract.

"Contract" means the Signature Document, these Uniform Terms and Conditions, along with any Attachments, and any Amendments, or Technical Guidance Letters that may be issued by the System Agency, to be incorporated by reference for all purposes.

"Deliverable" means the work product(s), including all reports and project documentation, required to be submitted by Grantee to the System Agency.

"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.

"Grantee" means the Party receiving funds under this Contract. May also be referred to as "Contractor" in certain attachments.

"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 Rights" means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such right may be evidenced by or embodied in:

i. any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement;
ii. any work of authorship, including any compilation, computer code, website or web page design, literary work, pictorial work, or graphic work;
iii. any trademark, service mark, trade dress, trade name, branding, or other indicia of source or origin;
iv. domain name registrations; and
v. any other proprietary or similar rights. The Intellectual Property Rights of a Party include all worldwide proprietary rights or interests that the Party may have acquired by assignment, by exclusive license, or by license with the right to grant sublicenses.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

"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 Grantee, collectively.

"Party" means either the System Agency or Grantee, individually.

"Program" means the statutorily authorized activities of the System Agency under which this Contract has been awarded.

"Project" means specific activities of the Grantee that are supported by funds provided under this Contract.

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

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

"Solicitation" or "Request for Applications (RFA)" means the document (including all amendments and attachments) issued by the System Agency under which applications for Program funds were requested, which is incorporated by reference for all purposes in its entirety.

"Solicitation Response" or "Application" means Grantee's full and complete response (including any attachments and addenda) to the Solicitation, which is incorporated by reference for all purposes in its entirety.

"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 *Textravel*" means Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

"Statement of Work" means the description of activities performed in completing the Project, as specified in the Contract and as may be amended.

"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, authorized representatives and designees of those agencies. These agencies include: HHSC 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 Grantee.

"Work Product" means any and all works, including work papers, notes, materials, approaches, designs, specifications, systems, innovations, improvements, inventions, software, programs, source code, documentation, training materials, audio or audiovisual recordings, methodologies, concepts, studies, reports, whether finished or unfinished, and whether or not included in the deliverables, that are developed, produced, generated or provided by Grantee in connection with Grantee's performance of its duties under the Contract or through use of any funding provided under this Contract.

"Uniform Grant Management Standards" or "UGMS" means uniform grant and contract administration procedures, developed under the authority of Chapter 783 of the Texas

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Government Code, to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies.

1.2 Interpretive Provisions

A. The meanings of defined terms include the singular and plural forms.
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, 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, 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. PAYMENT METHODS AND RESTRICTIONS

2.1 Payment Methods

A. Except as otherwise provided by this Contract, the payment method will be one or more of the following:
   i. Cost Reimbursement. This payment method is based on an approved budget and submission of a request for reimbursement of expenses Grantee has incurred at the time of the request;
   ii. Unit rate/fee-for-service. This payment method is based on a fixed price or a specified rate(s) or fee(s) for delivery of a specified unit(s) of service and acceptable submission of all required documentation, forms and/or reports; or
   iii. Advance payment. This payment method is based on disbursal of the minimum necessary funds to carry out the Program or Project where the Grantee has

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implemented appropriate safeguards. This payment method will only be utilized in accordance with governing law, state and federal regulations, and at the sole discretion of the System Agency.

B. Grantee shall bill the System Agency in accordance with the Contract. Unless otherwise specified in the Contract, Grantee shall submit requests for reimbursement or payment monthly by the last business day of the month following the month in which expenses were incurred or services provided. Grantee shall maintain all documentation that substantiates invoices and make the documentation available to the System Agency upon request.

2.2 Final Billing Submission

Unless otherwise provided by the System Agency, Grantee shall submit a reimbursement or payment request as a final close-out invoice not later than forty-five (45) calendar days following the end of the term of the Contract. Reimbursement or payment requests received after the deadline may not be paid.

2.3 Financial Status Reports (FSRs)

Except as otherwise provided, for contracts with categorical budgets, Grantee shall submit quarterly FSRs to System Agency by the last business day of the month following the end of each quarter for System Agency review and financial assessment. Grantee shall submit the final FSR no later than forty-five (45) calendar days following the end of the applicable term.

2.4 Use of Funds

Grantee shall expend funds under this Contract only for approved services and for reasonable and allowable expenses directly related to those services.

2.5 Use for Match Prohibited

Grantee shall not use funds provided under this Contract for matching purposes in securing other funding without the written approval of the System Agency.

2.6 Program Income

Income directly generated from funds provided under this Contract or earned only as a result of such funds is Program Income. Unless otherwise required under the Program, Grantee shall use Program Income, as provided in UGMS Section III, Subpart C, .25(g)(2), to further the Program, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report Program Income in accordance with the Contract, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Contract term, when earned, and may not carry Program Income forward to any succeeding term. Grantee shall refund Program Income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using Program Income for the purposes and under the conditions specified in this Contract.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

2.7 NONSUPPLANTING

Grant funds may be used to supplement existing, new or corresponding programming and related activities. Grant funds may not be used to supplant (replace) existing funds in place to support current programs and related activities.

2.8 ALLOWABLE COSTS

Allowable Costs are restricted to costs that comply with the Texas Uniform Grant Management Standards (UGMS) and applicable state and federal rules and law. The Parties agree that all the requirements of the UGMS apply to this Contract, including the criteria for Allowable Costs. Additional federal requirements apply if this Contract is funded, in whole or in part, with federal funds.

2.9 INDIRECT COST RATES

The System Agency may acknowledge an indirect cost rate for Grantees that is utilized for all applicable contracts. Grantee will provide the necessary financial documents to determine the indirect cost rate in accordance with the Uniform Grant Guidance (UGG) and Uniform Grant Management Standards (UGMS).

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 FUNDING

This Contract is subject to termination or cancellation, without penalty to System Agency, either in whole or in part, subject to the availability of state funds. System Agency is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If System Agency becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render either System Agency's or Grantee's delivery or performance under the Contract impossible or unnecessary, the Contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, System Agency will not be liable to Grantee for any damages, that are caused or associated with such termination, or cancellation, and System Agency will not be required to give prior notice.

3.2 NO DEBT AGAINST THE STATE

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

3.3 DEBT AND DELINQUENCIES

Grantee agrees that any payments due under the Contract shall be directly applied towards eliminating any debt or delinquency it has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support.

3.4 RECAPTURE OF FUNDS

A . At its sole discretion, the System Agency may i) withhold all or part of any payments to Grantee to offset overpayments, unallowable or ineligible costs made to the Grantee, or if any required financial status report(s) is not submitted by the due date(s), or ii) require Grantee to promptly refund or credit - within thirty (30) calendar days of written notice -

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

any funds erroneously paid by System Agency which are not expressly authorized under the Contract.

B. "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. Grantee 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. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Contract.

ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS

4.1 ALLOWABLE COSTS

A. System Agency will reimburse the allowable costs incurred in performing the Project that are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Contract. At its sole discretion, the System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. The System Agency may take repayment (recoup) from funds available under this Contract in amounts necessary to fulfill Grantee's repayment obligations. Applicable cost principles, audit requirements, and administrative requirements include, but are not limited to:

Applicable Entity	Applicable Cost Principles	Audit Requirements	Administrative Requirements
State, Local, and Tribal Governments	2 CFR Part 200 and UGMS	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Educational Institutions	2 CFR Part 200 and UGMS	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Non-Profit Organizations	2 CFR Part 200 and UGMS	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

For-profit Organization other than a hospital and an organization named in OMB Circular A-122 (2 CFR Part, 230) as not subject to that circular.	48 CFR Part 31, Contract Cost Principles and Procedures, or Uniform cost accounting standards that comply with cost principles acceptable to the federal or state awarding agency	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS

B. OMB Circulars will be applied with the modifications prescribed by UGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

4.2 AUDITS AND FINANCIAL STATEMENTS

A. Audits

i. HHS Single Audit Unit will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the form within thirty (30) calendar days after receipt of notice, Grantee will be subject to the sanctions and remedies for non-compliance with this Contract.

ii. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The federal threshold amount includes federal funds passed through by way of state agency awards.

iii. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000) in state funds awarded, Grantee shall have a single audit or program-specific audit in accordance with UGMS, State of Texas Single Audit Circular. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and UGMS.

iv. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or UGMS, as applicable, for their program-specific audits.

v. Each Grantee that is required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with the provisions of UGMS.

B. Financial Statements

Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

4.3 Submission of Audits and Financial Statements

A. Audits
Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit electronically one copy of the single audit or program-specific audit to the System Agency via:
i. HHS portal at: or,
https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau
ii. Email to: single_audit_report@hhsc.state.tx.us.

B. Financial Statements
Due no later than nine months after the Grantee's fiscal year end, Grantees which are not required to submit an audit, shall submit electronically financial statements via:
i. HHS portal at:
https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau; or,
ii. Email to: single_audit_report@hhsc.state.tx.us.

ARTICLE V. AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

5.1 General Affirmations

Grantee certifies that, to the extent General Affirmations are incorporated into the Contract under the Signature Document, the Grantee has reviewed the General Affirmations and that Grantee is in compliance with all requirements.

5.2 Federal Assurances

Grantee further certifies that, to the extent Federal Assurances are incorporated into the Contract under the Signature Document, the Grantee has reviewed the Federal Assurances and that Grantee is in compliance with all requirements.

5.3 Federal Certifications

Grantee further certifies that, to the extent Federal Certifications are incorporated into the Contract under the Signature Document, the Grantee has reviewed the Federal Certifications and that Grantee is in compliance with all requirements. In addition, Grantee certifies that it is in compliance with all applicable federal laws, rules, and regulations, as they may pertain to this Contract.

ARTICLE VI. INTELLECTUAL PROPERTY

6.1 Ownership of Work Product

All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Grantee hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing. Grantee agrees to execute all papers and to perform such other property rights as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.

6.2 Grantee's Pre-existing Works

To the extent that Grantee incorporates into the Work Product any works of Grantee that were created by Grantee or that Grantee acquired rights in prior to the Effective Date of this Contract ("**Incorporated Pre-existing Works**"), Grantee retains ownership of such Incorporated Pre-existing Works, and Grantee hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product. Grantee represents, warrants, and covenants to System Agency that Grantee has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

6.3 Agreements With Employees and Subcontractors

Grantee shall have written, binding agreements with its employees and subcontractors that include provisions sufficient to give effect to and enable Grantee's compliance with Grantee's obligations under this **Article VI**.

6.4 Delivery Upon Termination or Expiration

No later than the first calendar day after the termination or expiration of the Contract or upon System Agency's request, Grantee shall deliver to System Agency all completed, or partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Grantee's failure to timely deliver such Work Product is a material breach of the Contract. Grantee will not retain any copies of the Work Product or any documentation or other products or results of Grantee's activities under the Contract without the prior written consent of System Agency.

6.5 Survival

The provisions and obligations of this **Article VI** survive any termination or expiration of the Contract.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

ARTICLE VII. RECORDS, AUDIT, AND DISCLOSURE

7.1 BOOKS AND RECORDS

Grantee shall 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, Grantee shall 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.

7.2 ACCESS TO RECORDS, BOOKS, AND DOCUMENTS

In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors shall 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 shall 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 shall 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 Office of the Texas Attorney General, 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, Grantee shall produce original documents related to this Contract. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Grantee shall include this provision concerning the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

7.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

A. Grantee must act to ensure its and its Subcontractors' 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 services and Deliverables provided. Any such correction will be at Grantee's or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance shall be solely the decision of the System Agency.
B. As part of the services, Grantee must provide to HHSC upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the services and Deliverables provided to the State under the Contract.

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7.4 SAO AUDIT

A. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. The 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, under the direction of the legislative audit committee, 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 state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

B. Grantee shall comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.

7.5 CONFIDENTIALITY

Grantee shall maintain as confidential, and shall not disclose to third parties without System Agency's prior written consent, any System Agency information including but not limited to System Agency's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Contract.

ARTICLE VIII. CONTRACT REMEDIES AND EARLY TERMINATION

8.1 CONTRACT REMEDIES

To ensure Grantee's full performance of the Contract and compliance with applicable law, the System Agency reserves the right to hold Grantee accountable for breach of contract or substandard performance and may take remedial or corrective actions, including, but not limited to:

i. suspending all or part of the Contract;
ii. requiring the Grantee to take specific actions in order to remain in compliance with the Contract;
iii. recouping payments made by the System Agency to the Grantee found to be in error;
iv. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
v. imposing any other remedies, sanctions or penalties authorized under this Contract or permitted by federal or state statute, law, regulation or rule.

8.2 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. The System Agency's right to terminate the Contract for convenience is cumulative of all rights and remedies which exist now or in the future.

8.3 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:

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

i. **Material Breach**
The System Agency will have the right to terminate the Contract in whole or in part if the System Agency determines, in its sole discretion, that Grantee 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 Grantee's duties under the Contract. Grantee's misrepresentation in any aspect of Grantee's Solicitation Response, if any, or Grantee's addition to the Excluded Parties List System (EPLS) will also constitute a material breach of the Contract.

ii. **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 Grantee no longer maintains the financial viability required to complete the services and Deliverables, or otherwise fully perform its responsibilities under the Contract.

ARTICLE IX. MISCELLANEOUS PROVISIONS

9.1 AMENDMENT

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

9.2 INSURANCE

A. Unless otherwise specified in this Contract, Grantee shall 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. Grantee shall 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, Grantee shall 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, Grantee must produce renewal certificates for each type of coverage.

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

9.3 LEGAL OBLIGATIONS

Grantee shall 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. Grantee shall be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

9.4 Permitting and Licensure

At Grantee's sole expense, Grantee shall 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 Grantee to provide the goods or services required by this Contract. Grantee shall be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee shall be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Contract.

9.5 Indemnity

A. GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. GRANTEE AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

B. THIS PARAGRAPH IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLEGENT ACTS OR OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.

C. For the avoidance of doubt, System Agency shall not indemnify Grantee or any other entity under the Contract.

9.6 Assignments

A. Grantee 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 Grantee from its obligations under the Contract.

B. Grantee 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.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

9.7 Independent Contractor

Grantee and Grantee's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Contract. Neither Grantee nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. Should Grantee subcontract any of the services required in the Contract, Grantee expressly understands and acknowledges that in entering such subcontract(s), System Agency is in no manner liable to any Subcontractor(s) of Grantee. In no event shall this provision relieve Grantee of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Contract. Grantee shall have no claim against System Agency for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The Contract shall not create any joint venture, partnership, agency, or employment relationship between Grantee and System Agency.

9.8 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 (TGL). 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 for all purposes when it is issued.

9.9 Dispute Resolution

A. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute arising under the Contract.

B. 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.

9.10 Governing Law and Venue

The Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the System Agency.

9.11 Severability

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

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enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

9.12 Survivability

Expiration or termination of the Contract for any reason does not release Grantee from any liability or obligation set forth in the Contract that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of the Contract, including without limitation the provisions regarding warranty, indemnification, confidentiality, and rights and remedies upon termination.

9.13 Force Majeure

Neither Grantee nor System Agency shall be liable to the other for any delay in, or failure of performance, of any requirement included in the Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.

9.14 No Waiver of Provisions

The failure of the System Agency to object to or to take affirmative action with respect to any conduct of the Grantee which is in violation or breach of the terms of the Contract shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

9.15 Publicity

A. Except as provided in the paragraph below, Grantee 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.
B. Grantee may publish, at its sole expense, results of Grantee 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.
C. Contractor is prohibited from using the Work for any Contractor or third party marketing, advertising, or promotional activities, without the prior written consent of System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Contractor's or a third party's products, services, workshops, trainings, or other commercial offerings on any website portal or internet-based service or software application hosted or managed by Contractor as part of the Work.

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9.16 Prohibition on Non-compete Restrictions

Grantee shall 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.

9.17 No Waiver of Sovereign Immunity

Nothing in the Contract will be construed as a waiver of the System Agency's or the State's sovereign immunity. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas under the Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. System Agency does not waive any privileges, rights, defenses, or immunities available to System Agency by entering into the Contract or by its conduct prior to or subsequent to entering into the Contract.

9.18 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.

9.19 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.

9.20 Proper Authority

Each Party represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract.

9.21 E-Verify Program

Grantee certifies that it utilizes and will continue to utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

i. all persons employed to perform duties within Texas during the term of the Contract; and
ii. all persons, (including subcontractors) assigned by the Grantee to perform work pursuant to the Contract within the United States of America.

9.22 Civil Rights

A. Grantee agrees to comply with state and federal anti-discrimination laws, including:
   i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*);
   ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
   iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*);
   iv. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);

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v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011 *et seq.*); and
vii. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Contract.

B. Grantee 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.

C. Grantee 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. Grantee 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.

D. Grantee 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://hhscx.hhsc.texas.gov/system-support- services/civil-rights/publications

E. Grantee 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.

F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.

G. Grantee must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Contract. 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. 51st 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.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

9.23 System Agency Data

As between the Parties, all data and information acquired, accessed, or made available to Contractor by or through System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Contractor in the course of providing data processing services in connection with Contractor's performance hereunder, (the "**System Agency Data**"), is owned solely by System Agency. Contractor has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Contractor to fulfill its obligations under the Contract or as authorized in advance in writing by System Agency. For the avoidance of doubt, Contractor is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

ATTACHMENT C

TEXAS
Health and Human Services

Health and Human Services Commission
Special and Supplemental Conditions
Version: 1.2 Grantee
9.1.17

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

Table of Contents

Article I. Special Definitions 3

Article II. Grantee's Personnel and Subcontractors 3
2.01 Qualifications 3
2.02 Conduct and Removal 4

Article III. Performance 4
3.01 Measurement 4

Article IV. Amendments and Modifications 4
4.01 Formal Procedure 4
4.02 Minor Administrative Changes 5

Article V. Payment 5
5.01 Enhanced Payment Procedures 5

Article VI. Confidentiality 5
6.01 Consultant Disclosure 5
6.02 Confidential System Information 5

Article VII. Disputes and Remedies 6
7.01 Agreement of the Parties 6
7.02 Operational Remedies 6
7.03 Equitable Remedies 7
7.04 Continuing Duty to Perform 7

Article VIII. Damages 7
8.01 Availability and Assessment 7
8.02 Specific Items of Liability 7

Article IX. Miscellaneous Provisions 8
9.01 Conflicts of Interest 8
9.02 Flow Down Provisions 8

Article X. DSHS Legacy Provisions 8
10.01 Notice of Criminal Activity and Disciplinary Actions 8
10.02 Consent by Non-Parent or Other State Law to Medical Care of a Minor 9
10.03 Telemedicine /Telepsychiatry Medical Services 9
10.04 Services and Information for Persons with Limited English Proficiency 9
10.05 Third Party Payors 10
10.06 HIV/AIDS Model Workplace Guidelines 10
10.07 Medical Records Retention 10
10.08 Interim Extension Amendment 10
10.09 Child Abuse Reporting Requirement 11

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

HHSC SPECIAL CONDITIONS

The terms and conditions of these Special Conditions are incorporated into and made a part of the Contract. Capitalized items used in these Special Conditions and not otherwise defined have the meanings assigned to them in HHSC Uniform Terms and Conditions -Grant- Version 2.16.1

Article I. Special Definitions

"Conflict of Interest" means a set of facts or circumstances, a relationship, or other situation under which Grantee, a Subcontractor, or individual has past, present, or currently planned personal or financial activities or interests that either directly or indirectly: (1) impairs or diminishes the Grantee's, or Subcontractor's ability to render impartial or objective assistance or advice to the HHSC; or (2) provides the Grantee or Subcontractor an unfair competitive advantage in future HHSC procurements.

"Grantee Agents" means Grantee's representatives, employees, officers, Subcontractors, as well as their employees, contractors, officers, and agents.

"Data Use Agreement" means the agreement incorporated into the Contract to facilitate creation, receipt, maintenance, use, disclosure or access to Confidential Information.

"Item of Noncompliance" means Grantee's acts or omissions that: (1) violate a provision of the Contract; (2) fail to ensure adequate performance of the Work; (3) represent a failure of Grantee to be responsive to a request of HHSC relating to the Work under the Contract.

"Minor Administrative Change" refers to a change to the Contract that does not increase the fees or term and done in accordance with Section 4.02 of these Special Conditions.

"Confidential System Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to Grantee; or that Grantee may create, receive, maintain, use, disclose or have access to on behalf of HHSC or through performance of the Work, which is not designated as Confidential Information in a Data Use Agreement.

"State" means the State of Texas and, unless otherwise indicated or appropriate, will be interpreted to mean HHSC and other agencies of the State of Texas that may participate in the administration of HHSC Programs; provided, however, that no provision will be interpreted to include any entity other than HHSC as the contracting agency.

"UTC" means HHSC's Uniform Terms and Conditions -Grant- Version 2.16.1

Article II. Grantee's Personnel and Subcontractors

2.01 Qualifications

Grantee agrees to maintain the organizational and administrative capacity and capabilities proposed in its response to the Solicitation, as modified, to carry out all duties and responsibilities under the Contract. Grantee Agents assigned to perform the duties and responsibilities under the Contract must be and remain properly trained and qualified for the functions they are to perform. Notwithstanding the transfer or turnover of personnel, Grantee remains obligated to perform all duties and responsibilities under the Contract without degradation and in strict accordance with the terms of the Contract.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

2.02 Conduct and Removal

While performing the Work under the Contract, Grantee Agents must comply with applicable Contract terms, State and federal rules, regulations, HHSC's policies, and HHSC's requests regarding personal and professional conduct; and otherwise conduct themselves in a businesslike and professional manner.

If HHSC determines in good faith that a particular Grantee Agent is not conducting himself or herself in accordance with the terms of the Contract, HHSC may provide Grantee with notice and documentation regarding its concerns. Upon receipt of such notice, Grantee must promptly investigate the matter and, at HHSC's election, take appropriate action that may include removing the Grantee Agent from performing any Work under the Contract and replacing the Grantee Agent with a similarly qualified individual acceptable to HHSC as soon as reasonably practicable or as otherwise agreed to by HHSC.

Article III. Performance

3.01 Measurement

Satisfactory performance of the Contract, unless otherwise specified in the Contract, will be measured by:

(a) Compliance with Contract requirements, including all representations and warranties;
(b) Compliance with the Work requested in the Solicitation and Work proposed by Grantee in its response to the Solicitation and approved by HHSC;
(c) Delivery of Work in accordance with the service levels proposed by Grantee in the Solicitation Response as accepted by HHSC;
(d) Results of audits, inspections, or quality checks performed by the HHSC or its designee;
(e) Timeliness, completeness, and accuracy of Work; and
(f) Achievement of specific performance measures and incentives as applicable.

Article IV. Amendments and Modifications

4.01 Formal Procedure

No different or additional Work or contractual obligations will be authorized or performed unless contemplated within the Scope of Work and memorialized in an amendment or modification of the Contract that is executed in compliance with this Article. No waiver of any term, covenant, or condition of the Contract will be valid unless executed in compliance with this Article. Grantee will not be entitled to payment for Work that is not authorized by a properly executed Contract amendment or modification, or through the express written authorization of HHSC.

Any changes to the Contract that results in a change to either the term, fees, or significantly impacting the obligations of the parties to the Contract must be effectuated by a formal Amendment to the Contract. Such Amendment must be signed by the appropriate and duly authorized representative of each party in order to have any effect.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

4.02 Minor Administrative Changes

HHSC's designee, referred to as the Contract Manager, Project Sponsor, or other equivalent, in the Contract, is authorized to provide written approval of mutually agreed upon Minor Administrative Changes to the Work or the Contract that do not increase the fees or term. Changes that increase the fees or term must be accomplished through the formal amendment procedure, as set forth in Section 4.01 of these Special Conditions. Upon approval of a Minor Administrative Change, HHSC and Grantee will maintain written notice that the change has been accepted in their Contract files.

Article V. Payment

5.01 Enhanced Payment Procedures

HHSC will be relieved of its obligation to make any payments to Grantee until such time as any and all set-off amounts have been credited to HHSC. If HHSC disputes payment of all or any portion of an invoice from Grantee, HHSC will notify the Grantee of the dispute and both Parties will attempt in good faith to resolve the dispute in accordance with these Special Conditions. HHSC will not be required to pay any disputed portion of a Grantee invoice unless, and until, the dispute is resolved. Notwithstanding any such dispute, Grantee will continue to perform the Work in compliance with the terms of the Contract pending resolution of such dispute so long as all undisputed amounts continue to be paid to Grantee.

Article VI. Confidentiality

6.01 Consultant Disclosure

Grantee agrees that any consultant reports received by HHSC in connection with the Contract may be distributed by HHSC, in its discretion, to any other state agency and the Texas legislature. Any distribution may include posting on HHSC's website or the website of a standing committee of the Texas Legislature.

6.02 Confidential System Information

HHSC prohibits the unauthorized disclosure of Confidential System Information. Grantee and all Grantee Agents will not disclose or use any Confidential System Information in any manner except as is necessary for the Work or the proper discharge of obligations and securing of rights under the Contract. Grantee will have a system in effect to protect Confidential System Information. Any disclosure or transfer of Confidential System Information by Grantee, including information requested to do so by HHSC, will be in accordance with the Contract. If Grantee receives a request for Confidential System Information, Grantee will immediately notify HHSC of the request, and will make reasonable efforts to protect the Confidential System Information from disclosure until further instructed by the HHSC.

Grantee will notify HHSC promptly of any unauthorized possession, use, knowledge, or attempt thereof, of any Confidential System Information by any person or entity that may become known to Grantee. Grantee will furnish to HHSC all known details of the unauthorized possession, use, or knowledge, or attempt thereof, and use reasonable efforts to assist HHSC in investigating or preventing the reoccurrence of any unauthorized possession, use, or knowledge, or attempt thereof, of Confidential System Information.

HHSC will have the right to recover from Grantee all damages and liabilities caused by or arising from Grantee or Grantee Agents' failure to protect HHSC's Confidential Information as required by this section.

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Article VII. Disputes and Remedies

7.01 Agreement of the Parties

The Parties agree that the interests of fairness, efficiency, and good business practices are best served when the Parties employ all reasonable and informal means to resolve any dispute under the Contract before resorting to formal dispute resolution processes otherwise provided in the Contract. The Parties will use all reasonable and informal means of resolving disputes prior to invoking a remedy provided elsewhere in the Contract, unless HHSC immediately terminates the Contract in accordance with the terms and conditions of the Contract.

Any dispute, that in the judgment of any Party to the Agreement, may materially affect the performance of any Party will be reduced to writing and delivered to the other Party within 10 business days after the dispute arises. The Parties must then negotiate in good faith and use every reasonable effort to resolve the dispute at the managerial or executive levels prior to initiating formal proceedings pursuant to the UTC and Texas Government Code §2260, unless a Party has reasonably determined that a negotiated resolution is not possible and has so notified the other Party. The resolution of any dispute disposed of by agreement between the Parties will be reduced to writing and delivered to all Parties within 10 business days of such resolution.

7.02 Operational Remedies

The remedies described in this section may be used or pursued by HHSC in the context of the routine operation of the Contract and are directed to Grantee's timely and responsive performance of the Work as well as the creation of a flexible and responsive relationship between the Parties. Grantee agrees that HHSC may pursue operational remedies for Items of Noncompliance with the Contract. At any time, and at its sole discretion, HHSC may impose or pursue one or more said remedies for each Item of Noncompliance. HHSC will determine operational remedies on a case-by-case basis which include, but are not, limited to:

(a) Requesting a detailed Corrective Action Plan, subject to HHSC approval, to correct and resolve a deficiency or breach of the Contract;
(b) Require additional or different corrective action(s) of HHSC's choice;
(c) Suspension of all or part of the Contract or Work;
(d) Prohibit Grantee from incurring additional obligations under the Contract;
(e) Issue Notice to stop Work Orders;
(f) Assessment of liquidated damages as provided in the Contract;
(g) Accelerated or additional monitoring;
(h) Withholding of payments; and
(i) Additional and more detailed programmatic and financial reporting.

HHSC's pursuit or non-pursuit of an operational remedy does not constitute a waiver of any other remedy that HHSC may have at law or equity; excuse Grantee's prior substandard performance, relieve Grantee of its duty to comply with performance standards, or prohibit HHSC from assessing additional operational remedies or pursuing other appropriate remedies for continued substandard performance.

HHSC will provide notice to Grantee of the imposition of an operational remedy in accordance with this section, with the exception of accelerated monitoring, which may be unannounced. HHSC may require Grantee to file a written response as part of the operational remedy approach.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

7.03 Equitable Remedies

Grantee acknowledges that if, Grantee breaches, attempts, or threatens to breach, any obligation under the Contract, the State will be irreparably harmed. In such a circumstance, the State may proceed directly to court notwithstanding any other provision of the Contract. If a court of competent jurisdiction finds that Grantee breached, attempted, or threatened to breach any such obligations, Grantee will not oppose the entry of an order compelling performance by Grantee and restraining it from any further breaches, attempts, or threats of breach without a further finding of irreparable injury or other conditions to injunctive relief.

7.04 Continuing Duty to Perform

Neither the occurrence of an event constituting an alleged breach of contract, the pending status of any claim for breach of contract, nor the application of an operational remedy, is grounds for the suspension of performance, in whole or in part, by Grantee of the Work or any duty or obligation with respect to the Contract.

Article VIII. Damages

8.01 Availability and Assessment

HHSC will be entitled to actual, direct, indirect, incidental, special, and consequential damages resulting from Grantee's failure to comply with any of the terms of the Contract. In some cases, the actual damage to HHSC as a result of Grantee's failure to meet the responsibilities or performance standards of the Contract are difficult or impossible to determine with precise accuracy. Therefore, if provided in the Contract, liquidated damages may be assessed against Grantee for failure to meet any aspect of the Work or responsibilities of the Grantee. HHSC may elect to collect liquidated damages:

(a) Through direct assessment and demand for payment to Grantee; or
(b) By deducting the amounts assessed as liquidated damages against payments owed to Grantee for Work performed. In its sole discretion, HHSC may deduct amounts assessed as liquidated damages as a single lump sum payment or as multiple payments until the full amount payable by the Grantee is received by the HHSC.

8.02 Specific Items of Liability

Grantee bears all risk of loss or damage due to defects in the Work, unfitness or obsolescence of the Work, or the negligence or intentional misconduct of Grantee or Grantee Agents. Grantee will ship all equipment and Software purchased and Third Party Software licensed under the Contract, freight prepaid, FOB HHSC's destination. The method of shipment will be consistent with the nature of the items shipped and applicable hazards of transportation to such items. Regardless of FOB point, Grantee bears all risks of loss, damage, or destruction of the Work, in whole or in part, under the Contract that occurs prior to acceptance by HHSC. After acceptance by HHSC, the risk of loss or damage will be borne by HHSC; however, Grantee remains liable for loss or damage attributable to Grantee's fault or negligence.

Grantee will protect HHSC's real and personal property from damage arising from Grantee or Grantee Agents performance of the Contract, and Grantee will be responsible for any loss, destruction, or damage to HHSC's property that results from or is caused by Grantee or Grantee Agents' negligent

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

or wrongful acts or omissions. Upon the loss of, destruction of, or damage to any property of HHSC, Grantee will notify HHSC thereof and, subject to direction from HHSC or its designee, will take all reasonable steps to protect that property from further damage. Grantee agrees, and will require Grantee Agents, to observe safety measures and proper operating procedures at HHSC sites at all times. Grantee will immediately report to the HHSC any special defect or an unsafe condition it encounters or otherwise learns about.

Article IX. Miscellaneous Provisions

9.01 Conflicts of Interest

Grantee warrants to the best of its knowledge and belief, except to the extent already disclosed to HHSC, there are no facts or circumstances that could give rise to a Conflict of Interest and further that Grantee or Grantee Agents have no interest and will not acquire any direct or indirect interest that would conflict in any manner or degree with their performance under the Contract. Grantee will, and require Grantee Agents, to establish safeguards to prohibit Contract Agents from using their positions for a purpose that constitutes or presents the appearance of personal or organizational Conflict of Interest, or for personal gain. Grantee and Grantee Agents will operate with complete independence and objectivity without actual, potential or apparent Conflict of Interest with respect to the activities conducted under the Contract.

Grantee agrees that, if after Grantee's execution of the Contract, Grantee discovers or is made aware of a Conflict of Interest, Grantee will immediately and fully disclose such interest in writing to HHSC. In addition, Grantee will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Grantee or by HHSC as a potential conflict. HHSC reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Grantee agrees to abide by HHSC's decision.

If HHSC determines that Grantee was aware of a Conflict of Interest and did not disclose the conflict to HHSC, such nondisclosure will be considered a material breach of the Contract. Furthermore, such breach may be submitted to the Office of the Attorney General, Texas Ethics Commission, or appropriate State or federal law enforcement officials for further action.

9.02 Flow Down Provisions

Grantee must include any applicable provisions of the Contract in all subcontracts based on the scope and magnitude of Work to be performed by such Subcontractor. Any necessary terms will be modified appropriately to preserve the State's rights under the Contract.

Article X. DSHS Legacy Provisions

10.01 Notice of Criminal Activity and Disciplinary Actions

(a) Grantee shall immediately report in writing to their contract manager when Grantee has knowledge or any reason to believe 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 could constitute a criminal offense equal to or greater than a Class A

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

misdemeanor or grounds for disciplinary action by a state or federal regulatory authority; or

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) Grantee 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 the System Agency.

10.02 Consent by Non-Parent or Other State Law to Medical Care of a Minor

Unless a federal law applies, before a Grantee or its subcontractor can provide medical, dental, psychological or surgical treatment to a minor without parental consent, informed consent must be obtained as required by Texas Family Code Chapter 32.

10.03 Telemedicine /Telepsychiatry Medical Services

If Grantee or its subcontractor uses telemedicine/telepsychiatry, these services shall be in accordance with the Grantee's written procedures. Grantee must use a protocol approved by Grantee's medical director and equipment that complies with the System Agency equipment standards, if applicable. Grantee's procedures for providing telemedicine service must include the following requirements:

(a) Clinical oversight by Grantee'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.

10.04 Services and Information for Persons with Limited English Proficiency

(a) Grantee shall take reasonable steps to provide services and information both orally and in writing, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits and activities.
(b) Grantee 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.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

(c) Grantee 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.

10.05 Third Party Payors

Except as provided in this Contract, Grantee shall screen all clients and may not bill the System Agency 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 Grantee shall:

(a) Enroll as a Medicaid provider, or enter into a network provider agreement with a Children's Health Insurance Program and Medicaid Managed Care Organization (MCO) under terms and conditions that are mutually-agreeable to the Grantee and MCO. If providing approved services authorized under this Contract that may be covered by Medicaid or CHIP, the Grantee will bill those programs or contracted MCOs for the covered services;
(b) Provide assistance to individuals to enroll in such programs when the screening process indicates possible eligibility for such programs;
(c) Not bill the System Agency for any services eligible for third party reimbursement until all appeals to third party payors have been exhausted;
(d) Maintain appropriate documentation from the third party payor reflecting attempts to obtain reimbursement;
(e) Bill all third party payors for services provided under this Contract before submitting any request for reimbursement to System Agency; and
(f) Provide third party billing functions at no cost to the client.

10.06 HIV/AIDS Model Workplace Guidelines

Grantee shall implement System Agency'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 Grantees Policy No. 090.021.

Grantee 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.

10.07 Medical Records Retention

Grantee shall retain medical records in accordance with 22 TAC §165.1(b) or other applicable statutes, rules and regulations governing medical information.

10.08 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.

DocuSign Envelope ID: 956664FA-EF2D-414D-9AB1-D6235512422C

(b) The System Agency shall provide written notice of interim extension amendment to the Grantee 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) The System Agency will provide written notice of the interim extension amendment that specifies the reason for it and period of time for the extension.
(d) Grantee 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 for a period of time determined by the System Agency.

10.09 Child Abuse Reporting Requirement

(a) Grantees shall comply with child abuse and neglect reporting requirements in Texas Family Code Chapter 261. This section is in addition to and does not supersede any other legal obligation of the Grantee to report child abuse.
(b) Grantee shall develop, implement and enforce a written policy that includes at a minimum the System Agency's Child Abuse Screening, Documenting, and Reporting Policy for Grantees/Providers and train all staff on reporting requirements.
(c) Grantee shall use the System Agency's Child Abuse Reporting Form located at http://www.dshs.texas.gov/childabusereporting/ as required by the System Agency. Grantee shall retain reporting documentation on site and make it available for inspection by the System Agency.

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HHSC SUPPLEMENTAL CONDITIONS

Section 9.5, **Indemnity**, of **Attachment B**, **Uniform Terms and Conditions – Grantee Ver. 2.16.1**, is deleted in its entirety.

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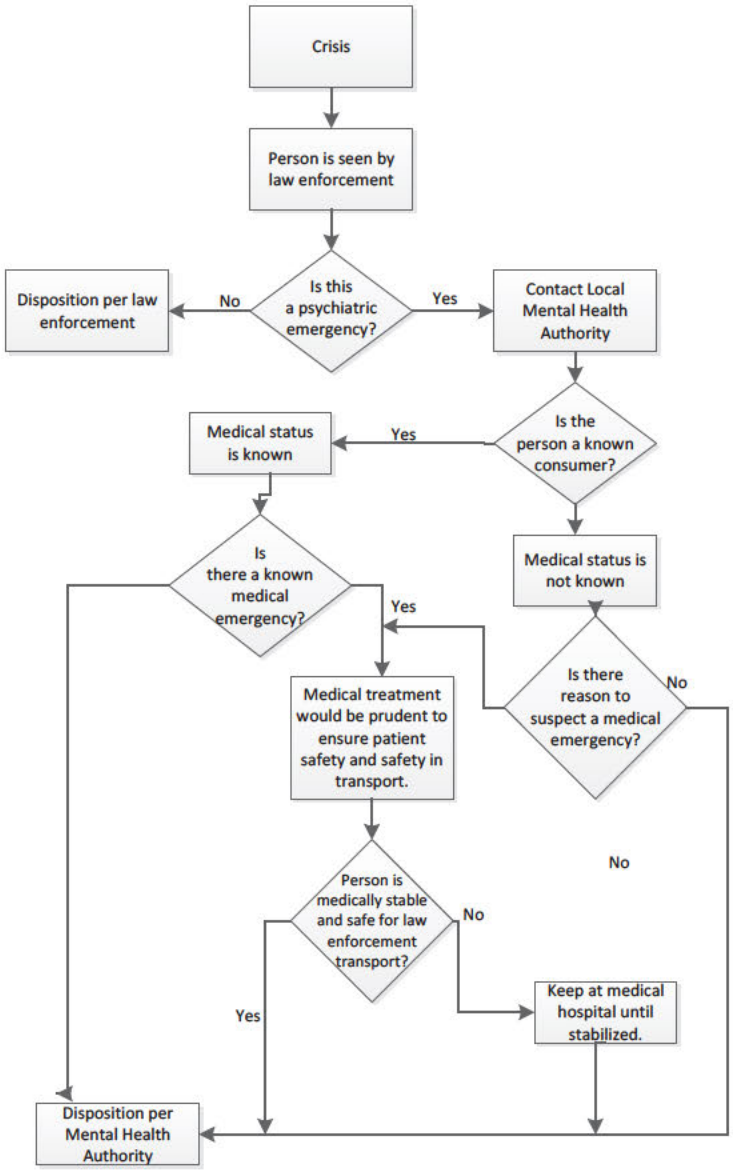
Exhibit E

Psychiatric Emergency Flow Chart

The Peace Officer may use the following indicators to determine if a medical emergency exists:

- Overdose
- Acute intoxication with alcohol or drugs
- Chest pain
- Fluctuating consciousness
- Stab wound, bleeding, or serious injury
- Seizure activity
- Complications from Diabetes
- Injured in assault or flight
- Victim of a sexual assault
- Person is a resident of a nursing home or assisted living facility. Note: With the elderly, sometimes medical problems can cause symptoms that look like mental illness, but are not. It's important to rule out medical problems as the cause.

**An inpatient facility or a mental health facility is not statutorily authorized to require a peace officer to transport a person in custody under Chapter 573, Health and Safety Code, to a medical facility for a medical evaluation prior to taking that person to the mental health facility.

The opinion of law enforcement as to whether a medical emergency exists is final in the screening conducted with the Local Mental Health Authority.

See Attorney General Opinion No. GA-0753, dated December 28, 2009, regarding whether a peace officer who has taken a person into custody under Chapter 573 of the Health and Safety Code may be required to transport that individual to a medical facility for evaluation prior to taking that person to a mental health facility.