

**SIGNATURE DOCUMENT FOR
HEALTH AND HUMAN SERVICES COMMISSION
CONTRACT NO. HHS000944000001**

The Health and Human Services Commission, (“System Agency”), an agency of the state of Texas, and **INTEGRATED RESEARCH INC, A COMPANY REGISTERED IN UNITED STATES OF AMERICA, AND ITS AFFILIATES**, (“Contractor” or “IR”), having its principal office at 6312 SOUTH FIDDLERS GREEN CIRCLE, SUITE 500N, GREENWOOD VILLAGE, CO 80111 , (each a “Party” and collectively the “Parties”), enter into the following agreement (“Contract”) for software licensing and maintenance.

I. LEGAL AUTHORITY

This Contract is entered into pursuant to Texas Government Code, Ch. 531, secs. 531.0055, 531.102.

II. DURATION

This software license shall commence upon the Effective Date and shall continue in full force for a term of three (3) years (“Term”). IR shall provide maintenance for one (1) year beginning on the Effective Date, provided, however, that System Agency shall have the option to extend the maintenance agreement for two additional one (1) year terms.

The Contract is effective on the signature date of the latter of the Parties to sign this agreement and terminates on August 31, 2023, unless sooner terminated. IR has continued to provide to System Agency the use of its Prognosis software since September 1, 2020. The provision of that software is hereby ratified and IR shall be paid for the provision of those license extensions.

III. LICENSE AGREEMENT

The License Agreement to which each party is bound is incorporated into and made a part of this Contract for all purposes and included as Attachment A.

IV. BUDGET

The total amount of this Contract, including both optional Maintenance years, will not exceed **\$434,484.94**. By executing this Contract, Contractor agrees to the contracted rates and budget for the Contract term, including the initial term, and all maintenance renewals and extensions exercised. However, at System Agency’s sole discretion or by mutual agreement of the Parties as authorized under the Contract, the budget or contract amounts

may be amended. All expenditures under the Contract will be in accordance with **ATTACHMENT E, QUOTE.**

V. CONTRACT REPRESENTATIVES

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

System Agency Contract Representative

Ivan Libson
Health and Human Services
Commission 4900 North Lamar Blvd
Austin, TX 78751
Ivan.Libson@hhs.texas.gov

Contractor Contract Representative

Will Witherow
Integrated Research, Inc
Level 9 100 Pacific Highway,
North Sydney, NSW 2060 Australia
Legal@ir.com

VI. NOTICE REQUIREMENTS

- A. All notices given by either party shall be in writing, include the Contract number, comply with all terms and conditions of the Contract, and be delivered to the party's Contract Representative identified above.
- B. Contractor shall send legal notices to System Agency at the address below and provide a copy to the System Agency's Contract Representative:

Health and Human Services Commission
Attn: Office of Chief Counsel
4900 N. Lamar Blvd.
Austin, Texas 78751

System Agency shall send legal notices to Contractor at the address in V. above.

- C. Notices given by either Party may be emailed or sent by common carrier for quickest available delivery. Email notices shall be deemed delivered when sent. Notices sent by common carrier shall be deemed delivered upon actual delivery by a common carrier signature required. Legal notices shall only be sent via common carrier or delivered in person.
- D. Either Party may change its Contract Representative or Legal Notice contact by providing written notice to the other Party.

VII. AUDIT RIGHTS

IR has the right to request utilization reports as well as conduct an annual audit (unless another interval is specified in the Order) of the System Agency System to confirm that System Agency is acting within the scope of its license. IR will respect the security requirements of System Agency and System Agency will provide reasonable access to enable IR to complete the audit. In the event the audit reveals that System Agency has exceeded the parameters of this Agreement, IR may invoice System Agency, and System Agency shall pay for such excess, from the date that System Agency exceeded the parameters of this Agreement.

VIII. HHSC Copying Rights

System Agency may only make copies of the Prognosis Software for back-up and archival purposes, provided that the System Agency shall keep a record of each such back-up copy and the location of its storage and provide all such records to IR upon request. System Agency may copy the Documentation provided by IR solely for its internal use. System Agency may not copy any Prognosis Software License Key supplied by Contractor or its agent. If the System Agency is temporarily unable to use the Prognosis Software on the Texas Medicaid & Healthcare Partnership System (System) System Agency may use it on another similar system at the same location(s) or a disaster recovery site designated by the System Agency for such time as the System is unable to be used. System Agency must ensure that all copies of the Prognosis Software made in accordance with this Agreement bear all of the copyright, proprietary and other notices that appear on the original Prognosis Software and are kept within System Agency's effective control. System Agency must not make, nor permit any other person to make, copies, transcriptions, notes or records, store, translate, sell, lease, or otherwise transfer or distribute any of the Prognosis Software in whole or in part, except as expressly permitted in this Agreement.

IX. Representations and Warranties Regarding Software

(A) COMPLIANCE WITH APPLICABLE LAW.

Each Party represents and warrants to the other that it complies with and will continue to comply with the provision of all applicable laws and regulations, and that it is not prohibited by any legal sanction from entering into the transactions contemplated hereunder.

Subsections B and C below, replace section 4.1 of the Uniform Terms and Conditions.

(B) IR PROGNOSIS SOFTWARE WARRANTY

Within thirty (30) days from the Delivery Date of the Prognosis Software (the "Warranty Period"), IR warrants that the Prognosis Software, when used in accordance with the instructions in the User Manual (including use on the System), will perform in all material respects in accordance with IR's written Specifications. IR will, at its own expense use commercially reasonable efforts to correct any reproducible error in the Prognosis Software reported to IR by System Agency in writing during the Warranty Period. If IR's efforts to correct any error fail, System Agency may, in its sole discretion, allow IR to continue its effort to correct the error or terminate this Contract and receive a pro-rata refund of funds paid for both licensing and maintenance, computed as of the first day the error is manifest.

(C) EXCLUSIONS

Subsection (B) shall each not apply to errors if where:

1. the System Agency does not operate the Prognosis Software in accordance with the instructions for such operation as published by IR;
2. the Prognosis Software is subjected to hardware malfunctions, unauthorized use, unusual physical, environmental or electrical stress in violation of the written specifications for the Prognosis Software; or

3. the Prognosis Software is altered by System Agency or anyone on behalf of System Agency without prior written consent of IR.

(D) DISCLAIMER.

EXCEPT FOR THE LIMITED WARRANTY EXPRESSLY STATED HEREIN, THE PROGNOSIS SOFTWARE AND SERVICES ARE PROVIDED "AS IS," AND IR HEREBY EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND OR NATURE, IN CONNECTION WITH THE INSTALLATION AND USE OF THE PROGNOSIS SOFTWARE, WHETHER EXPRESS, IMPLIED, OR STATUTORY. IR EXPRESSLY DISCLAIMS THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. IR DOES NOT WARRANT OR REPRESENT THAT USE OF PROGNOSIS SOFTWARE OR MAINTENANCE WILL BE UNINTERRUPTED OR ERROR FREE. IR DOES NOT MAKE ANY REPRESENTATIONS REGARDING THE USE, OR THE RESULTS OF USE, OF THE PROGNOSIS SOFTWARE OR SERVICES IN TERMS OF ACCURACY, RELIABILITY, OR OTHERWISE.

X. SYSTEM AGENCY REPRESENTATIONS AND WARRANTIES

System Agency represents and warrants that System Agency:

- a) will not use the Prognosis Software for any purpose or in any manner not expressly permitted by this Agreement;
- b) will obtain all authorizations, licenses, permits and consents required (whether from a third party, government or regulatory body) in connection with System Agency's access and use of the Prognosis Software; and
- c) shall protect the Prognosis Software from unauthorized use, access or disclosure or disclosure in the same manner as it protects its own similar confidential or proprietary information, and in no event less than the safeguards a reasonably prudent person would exercise under similar circumstances.

XI. INTELLECTUAL PROPERTY RIGHTS AND INDEMNITY

Article V, sections 5.1 through 5.6 of the Uniform Terms and Conditions, are hereby deleted and replaced with the following:

5.1 OWNERSHIP RIGHTS

System Agency understands and acknowledges that IR and or/its licensors retain all intellectual property rights, in and to the Prognosis Software. System Agency shall not attempt to modify, tamper with, disassemble, or merge all or any part of the Prognosis Software with any other software or item, or otherwise endeavor to discover or disclose the methods and concepts embodied in the Prognosis Software or the License Key, or cause or permit any third party to do so. System Agency shall not use the Prognosis Software, in the design, development, marketing or sale of any competitive product. Without the prior

written consent of IR, System Agency shall not permit any other computer program to be written or developed based on the Prognosis Software or on any IR Confidential Information.

System Agency acknowledges the validity of IR's Prognosis Trademarks and that the same are the property of IR. System Agency will not infringe upon, damage, or contest the rights of IR in the Prognosis Trademarks. System Agency disclaims any IP ownership right to the Prognosis Software.

The parties acknowledge that the Services to be provided by Contractor hereunder involve the installation, implementation, and optimization of Contractor's proprietary software. It is not the intention of the parties that Contractor create any Work Product for hire or Deliverable that will be owned by System Agency. Contractor shall retain all right, title and interest in all and any software product it produces, including the right to re-use any ideas, techniques and concepts utilized in providing Services hereunder.

Section 5.7 is renumbered as Section 5.2, provided that subsection E is also deleted.

XII. ASSIGNMENT AND ACCESS

The System Agency may use the services of third parties for the installation of new licensed Prognosis Software, Upgrades to existing licensed Prognosis Software and other changes; provided, however, that prior to rendering any services, each such third party must agree to be bound by terms and conditions at least as protective of and beneficial to IR as those set forth herein. This Agreement shall not be assigned or otherwise transferred by System Agency (whether voluntarily, involuntarily, by way of merger, by operation of law, or otherwise), in whole or in part, except with the prior written consent of IR, which IR may withhold in its sole discretion. Any System Agency attempts to assign or otherwise transfer this Agreement or the Prognosis Software without IR's prior written consent, shall be null and void and IR may terminate this Agreement upon written notice to System Agency. Notwithstanding the foregoing, System Agency may transfer the license and software to another Texas agency if required to do so as part of any re-organization of Texas agencies or programs required by the Texas Legislature.

XIII. RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

Section 8.3 of the Uniform terms and Conditions is revised to read as follows:

- A. Contractor 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 Contractor's or its Subcontractor's sole expense. Whether Contractor's action corrects the noncompliance shall be the sole, but reasonable, decision of the System Agency.
- B. As part of the Services, Contractor must, to the extent that it has possession and control of such, provide to System Agency upon request a copy of those portions of Contractor's and its Subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under the Contract.

X. LIMITATION OF LIABILITY

Section 10.1 of the Uniform Terms and Conditions is hereby deleted and replaced with the following:

10.1 LIMITATION OF LIABILITY

A. CONTRACTOR, ITS SUBCONTRACTORS AND THEIR RESPECTIVE PERSONNEL SHALL NOT BE LIABLE TO SYSTEM AGENCY FOR ANY CLAIMS, LIABILITIES OR ASSOCIATED EXPENSES RELATED TO THIS CONTRACT (“CLAIMS”) IN AN AGGREGATE AMOUNT IN EXCESS OF THE SUM EQUAL TO TWO (2) TIMES THE TOTAL AMOUNT PAID TO CONTRACTOR UNDER THE CONTRACT DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING THE ACCRUAL OF THE CLAIM OR CAUSE OF ACTION. NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY EXEMPLARY OR PUNITIVE DAMAGES UNDER ANY CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHER LEGAL THEORY. THIS LIMITATION WILL APPLY REGARDLESS OF THE CAUSE OF ACTION AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, PROVIDED, HOWEVER THAT THE FOREGOING LIMITATIONS AND EXCLUSIONS SHALL NOT APPLY TO THE FOLLOWING:

- i. CLAIMS RESULTING FROM EITHER PARTY’S OR ITS SUBCONTRACTORS’ RECKLESSNESS, BAD FAITH OR INTENTIONAL MISCONDUCT;**
- ii. CLAIMS FOR PERSONAL INJURY (INCLUDING DEATH) AND PROPERTY DAMAGE;**
- iii. DISALLOWANCE AND PENALTIES ASSESSED BY THE UNITED STATES GOVERNMENT AGAINST SYSTEM AGENCY CAUSED BY ANY ACT OR OMISSION OF CONTRACTOR OR CONTRACTOR’S LICENSED PROGRAM;**
- iv. VIOLATION OF INTELLECTUAL PROPERTY RIGHTS INCLUDING BUT NOT LIMITED TO PATENT, TRADEMARK, COPYRIGHT INFRINGEMENT, OR TRADE SECRET; or**
- v. CLAIMS RESULTING FROM VIOLATIONS BY EITHER PARTY RESULTING IN A BREACH OF CONFIDENTIAL INFORMATION, INCLUDING, BUT NOT LIMITED TO, FAILURE TO SAFEGUARD CONFIDENTIAL INFORMATION AS REQUIRED IN ATTACHMENT A, HHS DATA USE AGREEMENT.**

NOTWITHSTANDING THE FOREGOING, THE CONTRACTOR’S LIABILITY UNDER SUBSECTIONS (iv) AND (v) SHALL NOT

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EXCEED \$1 MILLION.

B. EACH PARTY HAS A DUTY TO MITIGATE THE DAMAGES THAT WOULD OTHERWISE BE RECOVERABLE FROM THE OTHER PARTY PURSUANT TO THIS CONTRACT BY TAKING SUCH ACTIONS AS MAY BE REQUIRED UNDER TEXAS LAW TO REDUCE OR LIMIT THE AMOUNT OF SUCH DAMAGES.

XI. Section 11.23 of the Uniform Terms and Conditions Enterprise Information Management Standards of the Uniform Terms and Conditions is hereby deleted.

XII. REVISED AFFIRMATIONS

General Affirmations Numbers 33 and 45 are revised to read as follows:

33. NO FELONY CRIMINAL CONVICTIONS

Contractor represents that to its knowledge neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, have been convicted of a felony criminal offense or that if such a conviction has occurred and Contractor is aware of such occurrence, Contractor has fully advised System Agency in writing of the facts and circumstances surrounding the convictions.

45. Drug-Free Workplace

Contractor represents and warrants that to the extent required by federal law, it shall maintain a drug-free work environment.

XVII MISCELLANEOUS REVISIONS TO THE UNIFORM TERMS AND CONDITIONS.

1.1 REVISED DEFINITIONS

The following definitions are hereby deleted and replaced with the following:

“Contractor” means Integrated Research, Inc.

The definition of GASB is hereby deleted.

1.2 INTERPRETIVE PROVISIONS

Section J is hereby deleted and replaced with the following:

Timely performance is a material requirement under this Contract.

2.4 TAXES

Section 2.4 of the Uniform Terms and Conditions is hereby deleted and replaced with the following:

Purchases made for State of Texas use are exempt from the Texas State Sales and Use Taxes and Federal Excise Tax. System Agency shall pay all other applicable taxes unless it provides Contractor a tax exemption certificate, Contractor represents and warrants that it shall pay all other taxes or similar amounts applicable to it resulting from the Contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Contractor or its employees.

8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

Section 8.3 is hereby deleted and replaced with the following:

Contract monitoring and enforcement activities, regulatory reviews, audits and investigations are activities that are required by law. IR will cooperate with HHS in performing these activities as described in the Contract, including without limitation, the Data Use Agreement. Contractor 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 Contractor's or its Subcontractor's sole expense. Whether Contractor's action corrects the noncompliance shall be the sole, but reasonable, decision of the System Agency.

As part of the Services, Contractor must provide to System Agency upon request a copy of those portions of Contractor's and its Subcontractors' (to the extent that Contractor has access to and control over such) internal audit reports relating to the Services and Deliverables provided to the State under the Contract.

8.5 CONFIDENTIALITY

Section 8.5 of the Uniform Terms and Conditions is hereby deleted and replaced with the following:

The parties do not intend for IR to access or receive HHS Confidential Information (as that term is defined in the Data Use Agreement); however, if IR does access HHS Confidential Information, IR will use reasonable commercial efforts to safeguard it in compliance with the HHS Data Use Agreement.

(A) System Agency DATA. System Agency agrees that IR may collect and use System Agency's technical data and related information, including but not limited

to technical information about System Agency’s usage of the Prognosis Software, to facilitate the provision of Prognosis Software updates, Prognosis Software Maintenance Support, benchmarking and other services related to the Prognosis Software (“**SYSTEM AGENCY DATA**”). IR’s collection of System Agency Data is limited to the data or information that System Agency provides to IR via the Prognosis Software and related services. IR may use System Agency Data to improve its products and services, to provide the Prognosis Software or services or otherwise to meet its obligations under this Agreement. If System Agency does not want to send System Agency Data to IR, System Agency may opt out following instructions provided by Maintenance Support services. IR will not disclose the System Agency Data to anyone other than its attorneys, accountants, and other professional advisors, except as required by law. IR shall protect the System Agency Data by using the same degree of care, but no less than a reasonable degree of care, as IR uses to protect its own proprietary and confidential information.

(B) IR Proprietary Information. During the performance of the Contract, IR may disclose to System Agency information that it considers proprietary or confidential (“IR Proprietary Information”). System Agency will not disclose the IR Proprietary Information, including any terms, prices or discounts, of this Contract to anyone other than its attorneys, accountants, and other professional advisors, except as required by law. System Agency shall protect the IR Proprietary Information by using the same degree of care, but no less than a reasonable degree of care, as System Agency Data uses to protect its own proprietary and confidential information.

(C) Use of Confidential, Proprietary Information. Each Party shall use the other’s Confidential Information, Proprietary Information and Data only to further the purposes of this Contract and shall not use same for its own benefit or for the benefit of its affiliates. This section will survive termination or expiration of this Contract. The obligations of the parties under this section will survive termination or expiration of this Contract. IR shall be responsible for any breach of these provisions by its subcontractors.

9.1 CONTRACT REMEDIES

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

- i. suspending all or part of the Contract;
- ii. requiring the Contractor to take reasonable specific actions in order to remain in compliance with the Contract;

- iii. recouping payments made by the System Agency to the Contractor found to be in error;
- iv. suspending, limiting, or placing reasonable conditions on the Contractor's continued performance of Work; or
- v. imposing any other remedies, sanctions, or penalties authorized under this Contract or permitted by federal or state law.

9.2 TERMINATION FOR CONVENIENCE

Section 9.2 of the Uniform Terms and Conditions is hereby deleted and replaced with the following:

The System Agency may terminate the Contract, in whole or in part, 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 the System Agency's notice of termination. Upon termination of this Contract under this Section 9.2, and subject to Section 3.1 of these Uniform Terms and Conditions, any amounts that were payable to Contractor, under this Contract as of the effective date of the termination shall be immediately due and payable and all rights granted to System Agency shall immediately cease. System Agency shall not be entitled to a refund of any fees paid under this Contract. For the avoidance of doubt, System Contracting may decline to exercise its options to extend maintenance services for years 2 and 3, in which case it shall have no obligation to pay for those services and IR shall have no obligation to perform them.

9.5 CONSEQUENCES FOR TERMINATION

Section 9.5 of the Uniform Terms and Conditions is hereby deleted and replaced with the following:

Upon termination of this Agreement, the Licensee will discontinue use of the Prognosis Software, erase all copies of the Prognosis Software from the Licensee's computers, and return to IR or destroy all copies of the Prognosis Software on tangible media and certify in writing to IR that it has fully complied with these requirements. Licensee acknowledges and agrees that no property right accrues to Licensee in its right to license Prognosis Software and services.

10.1 Intellectual Property Indemnity

The following provision replace in its entirety Section 10.1(A) of the Uniform Terms and Conditions.

IR shall indemnify, defend and hold System Agency harmless from and against any claims, actions, or demands including without limitation all damages finally awarded against the System Agency and costs, including reasonable attorneys' fees arising from any claim by a third party alleging that the Prognosis Software, or any part thereof, infringes or misappropriates any patent, trademark, copyright, or trade secret right of any third party

(an “IP Claim”), provided that System Agency promptly notifies IR in writing of any such IP Claim, allows IR sole control of the defense or settlement of such IP Claim and provides, at IR’s request, reasonable information and assistance to IR in the defense of the IP Claim. Upon notice of any IP Claim or upon the likelihood of such a IP Claim, System Agency shall permit IR, at IR’s option, to replace or modify any affected Prognosis Software to avoid infringement, or to procure for System Agency the right to continue to use and remarket such Prognosis Software or substitute other substantially functionally-equivalent, non-infringing software. If none of these alternatives is reasonably possible, IR may require System Agency to return the affected Prognosis Software to IR and IR’s sole liability regarding such return shall be to refund the license fee paid by System Agency, for the remaining term of the Order. IR shall have no obligation to indemnify System Agency for any IP Claim based upon the use of other than a current, unaltered version of the Prognosis Software if such infringement would have been avoided by using such a current, unaltered version. IR shall have no obligation with respect to IP Claims to the extent that they are based upon:

- a) the combination of Prognosis Software with any items not supplied by IR, where, in the absence of such incorporated or combined item, there would not be infringement;
- b) any modification or change to the Prognosis Software by any entity other than IR or its agent, if, in the absence of such alteration or modification, the Prognosis Software would not be infringing,
- c) any failure by System Agency to implement updated, revised or repaired modifications or replacements distributed by IR to address any alleged infringement; or
- d) any intellectual property right in which System Agency or any Affiliate of System Agency has a proprietary interest.

Any defense provided by IR must be coordinated by IR with System Agency’s attorney, the Attorney General of Texas. Notwithstanding any provision to the contrary in this section, no settlement requiring an admission of liability or payment of any sum by System Agency or an Affiliate may be agreed to by IR without the concurrence of the System Agency and the Attorney General of Texas. This Section states the entire liability of IR with respect to indemnification or liability for any Claim of infringement of patents, copyrights or other proprietary rights by the Prognosis Software or any part thereof or by its use or operation.

Article X, Section 10.2 of the Uniform Terms and Conditions should be deleted in its entirety and Section 10.3 is renumbered as Section 10.2.

Subsection C of Section 10.2, “Additional Indemnity Provisions” is revised to read as follows:

C. CONTRACTOR SHALL REIMBURSE SYSTEM AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, ACTUAL DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS’ FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE

SYSTEM AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF CONTRACTOR OR IF SYSTEM AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, SYSTEM AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR SHALL PAY ALL REASONABLE COSTS OF SYSTEM AGENCY'S COUNSEL.

11.1 of the Uniform Terms and Conditions ENTERPRISE INFORMATION MANAGEMENT STANDARDS

This section of the Uniform Terms and Conditions is deleted.

CONTRACT DOCUMENTS

The following documents are incorporated by reference and made a part of this Contract for all purposes.

Unless expressly stated otherwise in this Contract, in the event of conflict, ambiguity or inconsistency between or among this Signature Document and any Attachments the following Order of Precedence shall apply:

**THIS SIGNATURE DOCUMENT
ATTACHMENT A – DATA USE AGREEMENT, INCLUDING SPI
ATTACHMENT B - LICENSE AGREEMENT
ATTACHMENT C – CONTRACT AFFIRMATIONS
ATTACHMENT D – UNIFORM TERMS AND CONDITIONS
ATTACHMENT E – QUOTE
ATTACHMENT F– FEDERAL ASSURANCES
ATTACHMENT G – CERTIFICATION REGARDING LOBBYING**

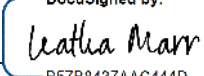
XVII. Signature Authority

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

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE FOR SYSTEM AGENCY CONTRACT NO. HHS000944000001

SYSTEM AGENCY

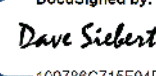
DocuSigned by:

B57B8437AAC444D...

[Insert Name] Leatha Marr

[Insert Title] Director - Application Services

Date of execution: October 12, 2020

INTEGRATED RESEARCH, INC.

DocuSigned by:

109786C715F94DE...

Name: Dave Siebert

Title: VP Americas

Date of execution: October 12, 2020

Attachment B

License Agreement

Background

- A. IR is the licensed distributor of the software program "Prognosis" (as defined below).
- B. System Agency wishes to License the Prognosis Software from IR, and to receive ongoing maintenance services in relation to the Prognosis Software.
- C. Defined terms herein shall have the meaning as described in Section 4 below.

The Parties to this Agreement (individually as "Party" and collectively as "Parties") hereby agree as follows:

1. Grant of License

1.1. License Grant.

Upon issuance and acceptance of an Order, IR will grant to System Agency the non-exclusive, non-transferable license(s) as set forth in the applicable Order(s) to use the Prognosis Software for internal business and governmental purposes only. System Agency shall not use the Prognosis Software to develop training materials or to provide or operate Application Service Provider (ASP), Managed Service Provider (MSP), consulting services, or any other commercial service related to the Prognosis Software. Notwithstanding the foregoing, System Agency may transfer this software to any other Texas state agency in connection with any re-organization of Texas agencies or programs directed by the Texas Legislature.

- 1.2. The System Agency may change the System's location, or name, upon payment to IR of any incidental cost to IR arising from such change or transfer. If the Prognosis Software is transferred to another system in a higher pricing group than the original System, the System Agency will pay the difference between the original License Fee and IR's then current Prognosis Software License Fee for the new System.
- 1.3. At no time shall the System Agency knowingly use or attempt to use the Prognosis Software without the License Key.

2. Pricing, Ordering, Payment and Delivery

2.1. Pricing

System Agency shall pay IR for the Prognosis Software and Maintenance Support as is listed in the written System Agency Purchase Order.

2.2. Delivery

Where Prognosis Software is supplied under this Agreement, IR will perform the following responsibilities:

- a) IR will fulfil orders by delivering Prognosis Software to the System Agency electronically or on a CD or DVD, followed by a security key or License Key sent via e-mail.
- b) IR will deliver to the System Agency, with the Prognosis Software, one (1) full copy of all applicable Documentation.

System Agency must install the Prognosis Software in accordance with IR's instructions and directions. At System Agency's request, IR shall install the Prognosis Software. This will be deemed a Consulting Service in accordance with Section 4 of this Agreement.

Any risk in the Prognosis Software immediately passes to System Agency on delivery. If any part of the Prognosis Software is lost, corrupted or destroyed after delivery to System Agency, at System Agency's request and sole cost, IR will replace the Prognosis Software after the receipt of a written request from System Agency.

3. Maintenance Support Services

- 3.1. During the Term of this Agreement, where appropriate Prognosis Software Maintenance Support services are purchased, IR shall allow the System Agency to download standard releases of any update or modification of the Prognosis Software, or part thereof, with prompt and appropriate amendments to the User Manual..

- 3.2. During normal business hours (8 am - 9 pm. Mountain time, Monday through Friday) as outlined online at <https://www.ir.com/contact-support> for the region of IR (the applicable Integrated Research entity), (excluding national holidays in the country of IR), IR or its agent, shall answer, by telephone, facsimile or email, questions in relation to the use of the Prognosis Software by the System Agency.
- 3.3. IR shall optionally provide 24x7 support, coverage, definition and deliverables under the arrangement described in the applicable Order. To activate the 24x7 support, System Agency shall pay an additional five percent (5%) of the then Current License List Price annually as shown in the applicable Order.
- 3.4. If the System Agency requires on-site support or design consultation, such Consulting Services may be provided by IR, or its agent pursuant to a separate SOW.
- 3.5. Any update or modification of the Prognosis Software supplied to the System Agency under this Agreement shall (unless a separate Software License Agreement is entered into in respect of such release) considered as an addition to, as part of or as a replacement of all or part of the Prognosis Software subject to the same terms and conditions as the Prognosis Software, but not so as to create a new Warranty Period under Section **Error! Reference source not found.** nor to extend the Term of the applicable Order as defined therein.
- 3.6. System Agency is not obliged to accept any update or modification of the Prognosis Software, but where System Agency elects not to accept any update or modification of the Prognosis Software, IR will not be liable for any loss or damage that System Agency suffers as a result of defects in the Prognosis Software, which could be remedied by the update or modification.
- 3.7. IR reserves the right to charge System Agency additional fees (which will have been notified to System Agency by IR and which may vary from time to time) for major technology upgrades to the Prognosis Software.
- 3.8. Maintenance Support to be provided by IR, or its agent, under this Agreement do not include:
 - a) hardware maintenance services;
 - b) the supply or maintenance of peripheral equipment, accessories or consumables;
 - c) training of operating staff; or
 - d) investigation or corrections of errors in software other than the Prognosis Software.

4. Definitions

“**Affiliate**” means the Department of State Health Services and any other agency of the state of Texas now or hereafter made a part of the Texas Health and Human Services System or to which System Agency is directed to provide administrative support.

“**Delivery Date**” means the date on which IR has furnished or shipped to the Licensee both the Prognosis Software and the Licence Key, which enables use of the Prognosis Software.

“**Documentation**” means all documentation relating to guidance and instruction in the use of the Prognosis Software, provided with the current version of the Prognosis Software by IR, to the System Agency or developed by IR in conjunction with the System Agency, which is the basis for all performance warranties.

“**Effective Date**” means the date upon which this Agreement is signed by both Parties and therefore and becomes effective.

“**Licensee**” means the System Agency

“**License Key**” means a security key, provided by IR, or its agent, which must be entered by the System Agency, upon installation of the Prognosis Software, to activate the Prognosis Software program(s) and any updates or modifications, which may be supplied by IR to System Agency. IR reserves the right to deliver the License Key periodically over the Term in any given Order, upon receipt of payment.

“**Maintenance Support**” means any support services requested by Licensee which will be provided by IR, or its agent, and specified in an Order but does not include Consulting Services. It includes Minor Product Upgrades, Major Product Upgrades, and technical support. For complete details on IR Support, please refer to the appropriate Customer Support Guide for: (a) 8x5 Maintenance Support; or (b) 24x7 Maintenance Support. Web Support Portal: <http://support.ir.com>.

“**Major Product Upgrades**” are new versions of Prognosis, which may include bug fixes, enhancements and new features. They are indicated by an increase in version number to the left of the first decimal point (e.g., 10.2 to 11.0). Specifically, they do not include access to new Modules or new Platforms.

“**Minor Product Upgrades**” are new versions of Prognosis, which may include bug fixes, enhancements and new features. They are indicated by an increase in the version number to the right of the first decimal point (e.g., 10.2 to 10.3). Specifically, they do not include access to new Modules or new Platforms.

“**Module**” is a separately licensed set of features, available within a pre-requisite Product. There is no separate installation for a Module.

“**Order**” means a System Agency Purchase Order issued by System Agency, which provides the details of the particular software, software license and maintenance terms to be acquired by System Agency and states the relevant license and maintenance fees.

“**Platforms**” are the third-party devices and applications monitored by Prognosis. When the Prognosis Software is licensed, it includes a licence for the current Platforms supported by the Prognosis Software at that time.

“**Prognosis Software**” means the Prognosis Software program(s) (which are subject to change from time to time at the sole discretion of IR), the Licence Key, all accompanying Documentation and any updated or modified release that may be supplied by IR to the Licensee. Prognosis Software also includes any Work Product.

“**Specifications**” means the Prognosis Software specifications as published and updated by IR from time to time.

“**System**” means the configuration of central processing units, terminals and other peripherals referred to in the applicable Order.

“**Work Product**” has the meaning as defined in the Uniform Terms and Conditions.

Attachment C

HEALTH AND HUMAN SERVICES CONTRACT AFFIRMATIONS

The term "System Agency" used in these affirmations means HHS or any of the agencies of the State of Texas that are overseen by HHSC under authority granted under Texas law and the officers, employees, authorized representatives, and designees of those agencies. These agencies include: HHSC and the Department of State Health Services.

By entering into this Contract, Contractor affirms, without exception, understands, and agrees to comply with the following items through the life of the Contract:

- 1.** Contractor represents and warrants that these Contract Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract and any related Solicitation.

- 2. Complete and Accurate Information**

Contractor represents and warrants that all statements and information provided to System Agency are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.

- 3. Public Information Act**

Contractor understands that System Agency will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

- 4. Contracting Information Requirements**

Contractor represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

5. Assignment

- A. Contractor shall not assign its rights under the contract or delegate the performance of its duties under the contract without prior written approval from HHSC. Any attempted assignment in violation of this provision is void and without effect.
- B. Contractor understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. This assignment will only be made to another State agency or a non-state agency that is contracted to perform agency support. Upon receipt of System Agency's notice of assignment, pledge, or transfer, Contractor shall cooperate with System Agency in giving effect to such assignment, pledge, or transfer, at no cost to System Agency or to the recipient entity

6. Terms and Conditions Attached to Response

Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation, as well as terms and conditions advanced by Contractor that differ in any manner from System Agency's terms and conditions, if any, are rejected unless expressly accepted by System Agency in writing.

7. System Agency Right to Use

Contractor agrees that System Agency has the right to use, produce, and distribute copies of and to disclose to System Agency employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as System Agency deems necessary to complete the procurement process or comply with state or federal laws.

8. Release from Liability

Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of System Agency.

9. Dealings with Public Servants

Contractor has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract or any related Solicitation, or related Solicitation Response.

10. Financial Participation Prohibited

Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

11. Prior Disaster Relief Contract Violation

Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

12. Child Support Obligation

Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate.

13. Suspension and Debarment

Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.

14. Excluded Parties

Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*," published by the United States Department of the Treasury, Office of Foreign Assets Control.'

15. Foreign Terrorists Organizations

Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

16. Executive Head of a State Agency

In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

17. Human Trafficking Prohibition

Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

18. Franchise Tax Status

Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.

19. Debts and Delinquencies

Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

20. Lobbying Prohibition

Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

21. Buy Texas

Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.

22. Disaster Recovery Plan

Contractor agrees that upon request of System Agency, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.

23. Technology Access

- A. Contractor expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Contractor represents and warrants to System Agency that the technology provided to System Agency for purchase (if applicable under this Contract or any related Solicitation) is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of:
1. providing equivalent access for effective use by both visual and non-visual means;
 11. presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
 111. being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.
- B. For purposes of this Section, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as

assistive devices or services which would constitute reasonable accommodations under the Americans With Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.

- C. In accordance with Section 2157.005 of the Texas Government Code, the Technology Access Clause contract provision remains in effect for any contract entered into before September 1, 2006.

24. Computer Equipment Recycling Program

If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.

25. Television Equipment Recycling

If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.

26. Cybersecurity Training

- A. Contractor represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.
- B. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.

27. Restricted Employment for Certain State Personnel

Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.

28. Disclosure of Prior State Employment

If this Contract is for consulting services under Chapter 2254 of the Texas Government Code, in accordance with Section 2254.033 of the Texas Government Code, Contractor certifies that it does not employ an individual who was employed by System Agency or another agency at any time during the two years preceding the submission of any related

Solicitation Response related to this Contract or, in the alternative, Contractor has disclosed in any related Solicitation Response the following:

1. the nature of the previous employment with System Agency or the other agency;
11. the date the employment was terminated; and
111. the annual rate of compensation at the time of the employment was terminated.

29. No Conflicts of Interest

- A. Contractor represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to System Agency under this Contract or any related Solicitation and that Contractor's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
- B. Contractor agrees that, if after execution of the Contract, Contractor discovers or is made aware of a Conflict of Interest, Contractor will immediately and fully disclose such interest in writing to HHSC. In addition, Contractor will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Contractor or by HHSC as a potential conflict. HHSC reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Contractor agrees to abide by HHSC's decision.

30. Fraud, Waste, and Abuse

Contractor understands that System Agency does not tolerate any type of fraud. The agency's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. All employees or contractors who suspect fraud, waste or abuse (including employee misconduct that would constitute fraud, waste, or abuse) are required to immediately report the questionable activity to both the Health and Human Services Commission's Office of the Inspector General at 1-800-436-6184 and the State Auditor's Office. Contractor agrees to comply with all applicable laws, rules, regulations, and System Agency policies regarding fraud including, but not limited to, HHS Circular C-027.

31. Antitrust

The undersigned affirms under penalty of perjury of the laws of the State of Texas that:

- A. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- B. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any federal antitrust law; and
- C. neither I nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Contractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Contractor.

32. Legal and Regulatory Actions

Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Contractor or any of the individuals or entities included in numbered paragraph 1 of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to System Agency a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify System Agency in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update System Agency shall constitute breach of contract and may result in immediate contract termination.

33. No Felony Criminal Convictions

Contractor represents that neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, have been convicted of a felony criminal offense or that if such a conviction has occurred Contractor has fully advised System Agency in writing of the facts and circumstances surrounding the convictions.

34. Unfair Business Practices

Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

35. Entities that Boycott Israel

Pursuant to Section 2271.002 of the Texas Government Code, Contractor certifies that either:

1. it meets an exemption criteria under Section 2271.002; or
11. it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this Solicitation. If Contractor refuses to make that certification,

Contractor shall state here any facts that make it exempt from the boycott certification:

36. E-Verify Program

Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Contract to determine the eligibility of:

- i. all persons employed by Contractor to perform duties within Texas; and
- ii. all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.

37. Professional or Consulting Contract

If this Contract is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, Contractor represents and warrants that neither Contractor nor any of Contractor's employees including, but not limited to, those authorized to provide services under the contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the contract.

38. Former Agency Employees

Contractor represents and warrants, during the twelve (12) month period immediately prior to the date of the execution of this Contract, none of its employees including, but not limited to those who will provide services under the Contract, was an employee of an HHS Agency. Pursuant to Section 2252.901, Texas Government Code (relating to prohibitions regarding contracts with and involving former and retired state agency employees), Contractor will not allow any former employee of the System Agency to perform services under this Contract during the twelve (12) month period immediately following the employee's last date of employment at the System Agency.

39. Disclosure of Prior State Employment

If this Contract is for consulting services,

- A. In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, HHSC or another State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:
 - i. Name of individual(s) (Respondent or employee(s));
 - ii. Status;
 - iii. The nature of the previous employment with HHSC or the other State of Texas agency,

- iv. The date the employment was terminated and the reason for the termination; and
 - v. The annual rate of compensation for the employment at the time of its termination.
- B. If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by HHSC or any other State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services.

40. Abortion Funding Limitation

Contractor understands, acknowledges, and agrees that, pursuant to Article IX, Section 6.25 of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act:

- i. performs an abortion procedure that is not reimbursable under the state's Medicaid program;
- ii. is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program; or
- iii. is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program. The provision does not apply to a hospital licensed under Chapter 241, Health and Safety Code, or an office exempt under Section 245.004(2), Health and Safety Code. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article IX, Section 6.25.

41. Funding Eligibility

Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2272 of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Contractor certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 of the Texas Government Code. If Contractor refuses to make that certification, Contractor shall state here any facts that make it exempt from the certification:

42. False Representation

Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

43. False Statements

Contractor represents and warrants that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material

misrepresentation made by Contractor during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

44. Permits and License

Contractor represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.

45. Drug-Free Workplace

Contractor represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §701 et seq.) and maintain a drug-free work environment.

46. Equal Employment Opportunity

Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

47. Federal Occupational Safety and Health Law

Contractor represents and warrants that all articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).

48. Signature Authority

Contractor represents and warrants that the individual signing this Contract Affirmations document is authorized to sign on behalf of Contractor and to bind the Contractor.

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SIGNATURE PAGE FOR SYSTEM AGENCY CONTRACT NO. HHS000944000001

SYSTEM AGENCY

INTEGRATED RESEARCH, INC.

DocuSigned by:
Leatha Marr _____
B57B8437AAC444D...
[Insert Name] Leatha Marr

[Insert Title] Director - Application Services

Date of execution: October 12, 2020

DocuSigned by:
Dave Siebert _____
109786C715F94DE...
Name: Dave Siebert

Title: VP Americas

Date of execution: October 12, 2020

Attachment D



TEXAS
Health and Human Services

Health and Human Services (HHS)

Uniform Terms and Conditions - Vendor

Version 3.0

Published and Effective - November 7, 2019

Responsible Office: Chief Counsel

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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.

“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, purchase orders, or Work Orders that may be issued by the System Agency, to be incorporated by reference for all purposes.

“Contractor” means the Party selected to provide the goods or Services to the State under this Contract.

“Deliverable” means a Work Product(s), including all reports and project documentation, prepared, developed, or procured by Contractor as part of the Services under the Contract for the use or benefit of the System Agency or the State of Texas.

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

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

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

“Goods” means supplies, materials, or equipment.

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

“Health and Human Services” or “HHS” includes the Department of State Health Services (DSHS), in addition to the Health and Human Services Commission.

“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 rights 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.

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

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

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

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

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

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

“Solicitation” means the document issued by the System Agency (including any published addenda, exhibits, and Attachments) under which the goods or Services provided under the Contract were initially requested, which is incorporated by reference for all purposes in its entirety.

“Solicitation Response” means Contractor’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 the State Travel Management Program through the Texas Comptroller of Public Accounts website and Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

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

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

“System Agency” means HHSC or any of the agencies of the State of Texas that are overseen by HHSC under authority granted under state law and the officers, employees, authorized representatives, and designees of those agencies. These agencies include: HHSC and the Department of State Health Services.

“**Third Party IP**” means the Intellectual Property Rights of any third party that is not a party to this Contract, and that is not a Subcontractor.

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

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

“**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 Contractor in connection with Contractor’s performance of its duties under the Contract or through use of any funding provided under this Contract.

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 PROVISIONS

2.1 PROMPT PAYMENT

Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

2.2 ANCILLARY AND TRAVEL EXPENSES

- A. Except as otherwise provided in the Contract, no ancillary expenses incurred by the Contractor in connection with its provision of the Services or Deliverables will be reimbursed by the System Agency. Ancillary expenses include, but are not limited to costs associated with transportation, delivery, and insurance for each Deliverable.
- B. When the reimbursement of travel expenses is authorized by the Contract, all such expenses will be reimbursed in accordance with the rates set by the State of Texas *Textravel* available at the Texas Comptroller of Public Accounts State Travel Management Program website.

2.3 NO QUANTITY GUARANTEES

The System Agency makes no guarantee of volume or usage of work under this Contract. All Work requested may be on an irregular and as needed basis throughout the Contract term.

2.4 TAXES

Purchases made for State of Texas use are exempt from the State Sales Tax and Federal Excise Tax. Contractor represents and warrants that it shall pay all taxes or similar amounts resulting from the Contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Contractor or its employees. System Agency shall not be liable for any taxes resulting from the contract.

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 EXCESS OBLIGATIONS PROHIBITED

The Contract is subject to termination or cancellation, without penalty to the 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 Contractor'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 Contractor 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

Contractor 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 REFUNDS AND OVERPAYMENTS

- A. At its sole discretion, the System Agency may:
- i. withhold all or part of any payments to Contractor to offset overpayments, unallowable or ineligible costs made to the Contractor, or if any required financial status report(s) is not submitted by the due date(s); or,
 - ii. require Contractor to promptly refund or credit - within thirty (30) calendar days of written notice - 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. Contractor understands and agrees that it will be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Contractor further understands and agrees that reimbursement of such disallowed costs shall be paid by Contractor from funds which were not provided or otherwise made available to Contractor under this Contract.

ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES, AND CERTIFICATIONS

4.1 WARRANTY

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

- i. Repair or replace all defective or damaged Work;
- ii. Refund any payment Contractor received from System Agency for all defective or damaged Work and, in conjunction therewith, require Contractor to accept the return of such Work; and,
- iii. Take necessary action to ensure that Contractor's future performance and Work conform to the Contract requirements.

4.2 GENERAL AFFIRMATIONS

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

4.3 FEDERAL ASSURANCES

Contractor certifies that, to the extent federal assurances are incorporated into the Contract under the Signature Document, the Contractor has reviewed the federal assurances and that Contractor is in compliance with all requirements.

4.4 FEDERAL CERTIFICATIONS

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

ARTICLE V. INTELLECTUAL PROPERTY

5.1 OWNERSHIP OF WORK PRODUCT

- A. All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Contractor and Contractor's employees will have no rights in or ownership of the Work Product or any other property of System Agency.
- B. 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, Contractor 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 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.
- C. Contractor agrees to execute all papers and to perform such other acts as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned.
- D. In the event that Contractor has any rights in and to the Work Product that cannot be assigned to System Agency, Contractor 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.
- E. The foregoing does not apply to Incorporated Pre-existing Works or Third Party IP that are incorporated in the Work Product by Contractor. Contractor shall provide System Agency access during normal business hours to all Vendor materials, premises, and computer files containing the Work Product.

5.2 CONTRACTOR'S PRE-EXISTING WORKS

- A. To the extent that Contractor incorporates into the Work Product any works of Contractor that were created by Contractor or that Contractor acquired rights in prior to the Effective

Date of this Contract (“**Incorporated Pre-existing Works**”), Contractor retains ownership of such Incorporated Pre-existing Works.

- B. Contractor hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, reproduce, 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.
- C. Contractor represents, warrants, and covenants to System Agency that Contractor has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

5.3 THIRD PARTY IP

- A. To the extent that any Third Party IP is included or incorporated in the Work Product by Contractor, Contractor hereby grants to System Agency, or shall obtain from the applicable third party for System Agency’s benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for System Agency’s internal business purposes only,
 - i. to use, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Third Party IP and any derivative works thereof embodied in or delivered to System Agency in conjunction with the Work Product, and
 - ii. to authorize others to do any or all of the foregoing.
- B. Contractor shall obtain System Agency’s advance written approval prior to incorporating any Third Party IP into the Work Product, and Contractor shall notify System Agency on delivery of the Work Product if such materials include any Third Party IP.
- C. Contractor shall provide System Agency all supporting documentation demonstrating Contractor’s compliance with this **Section 5.3**, including without limitation documentation indicating a third party’s written approval for Contractor to use any Third Party IP that may be incorporated in the Work Product.

5.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS

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

5.5 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, Contractor shall deliver to System Agency all completed, or partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Contractor’s failure to timely deliver such Work Product is a material breach of the Contract. Contractor will not retain any copies of the Work Product or any documentation or other products or results of Contractor’s activities under the Contract without the prior written consent of System Agency.

5.6 SURVIVAL

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

5.7 SYSTEM AGENCY DATA

- A. As between the Parties, all data and information acquired, accessed, or made available to Contractor by, through, or on behalf of 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.
- B. 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.
- C. 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.
- D. Contractor shall make System Agency Data available to System Agency, including to System Agency's designated vendors, as directed in writing by System Agency. The foregoing shall be at no cost to System Agency.
- E. Furthermore, the proprietary nature of Contractor's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Contractor's performance of its obligations hereunder.

ARTICLE VI. PROPERTY

6.1 USE OF STATE PROPERTY

- A. Contractor is prohibited from using State Property for any purpose other than performing Services authorized under the Contract.
- B. State Property includes, but is not limited to, System Agency's office space, identification badges, System Agency information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads or tablets, external hard drives, data storage devices, any System Agency-issued software, and the System Agency Virtual Private Network (VPN client)), and any other resources of System Agency.
- C. Contractor shall not remove State Property from the continental United States. In addition, Contractor may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
- D. Contractor shall not perform any maintenance services on State Property unless the Contract expressly authorizes such Services.
- E. During the time that State Property is in the possession of Contractor, Contractor shall be responsible for:
 - i. all repair and replacement charges incurred by State Agency that are associated with loss of State Property or damage beyond normal wear and tear, and
 - ii. all charges attributable to Contractor's use of State Property that exceeds the Contract scope. Contractor shall fully reimburse such charges to System Agency within ten (10) calendar days of Contractor's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Contract shall constitute breach of contract and may result in termination of the Contract and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

6.2 DAMAGE TO GOVERNMENT PROPERTY

- A. In the event of loss, destruction, or damage to any System Agency or State of Texas owned, leased, or occupied property or equipment by Contractor or Contractor's employees, agents, Subcontractors, and suppliers, Contractor shall be liable to System Agency and the State of Texas for the full cost of repair, reconstruction, or replacement of the lost, destroyed, or damaged property.
- B. Contractor shall notify System Agency of the loss, destruction, or damage of equipment or property within one (1) business day. Contractor shall reimburse System Agency and the State of Texas for such property damage within 10 calendar days after Contractor's receipt of System Agency's notice of amount due.

6.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT

In the event the Contract is terminated for any reason, or upon its expiration State Property remains the property of the System Agency and must be returned to the System Agency by the end date of the Contract or upon System Agency's request.

ARTICLE VII. WORK ORDERS

7.1 WORK ORDERS

If the Contract is for indefinite quantities of Services, as specified in the Signature Document, all Work will be performed in accordance with properly executed Work Orders.

7.2 PROPOSALS

For Work Order contracts, the Contractor shall submit to System Agency separate proposals, including pricing and a project plan, for each Project.

7.3 RESPONSIBILITY

For each approved Project, the Contractor shall be responsible for all Work assigned under the Work Order. Multiple Work Orders may be issued during the term of this Contract, all of which will be in writing and signed by the Parties. Each Work Order will include a scope of Services; a list of tasks required; a time schedule; a list of Deliverables, if any; a detailed Project budget; and any other information or special conditions as may be necessary for the Work assigned.

7.4 TERMINATION

If this Work Order is in effect on the day the Contract would otherwise expire, the Contract will remain in effect until this Work Order is terminated or expires; and the Contract and this Work Order may be amended after such termination or expiration to extend the performance period or add ancillary deliverables or services, only to the extent necessary.

ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY

8.1 RECORD MAINTENANCE AND RETENTION

- A. Contractor 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.

- B. Contractor shall maintain and retain legible copies of this Contract and all records relating to the performance of the Contract including supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by Contractor for a minimum of seven (7) years after the Contract expiration date or seven (7) years after the completion of all audit, claim, litigation, or dispute matters involving the Contract are resolved, whichever is later.

8.2 AGENCY'S RIGHT TO AUDIT

- A. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Contractor pertaining to the Contract for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas.
- B. In addition to any right of access arising by operation of law, Contractor and any of Contractor'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 Texas Attorney General's Office, and any successor agencies. Each of these entities may be a duly authorized authority.
- C. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Contractor shall produce original documents related to this Contract.
- D. 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.
- E. Contractor 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.

8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

- A. Contractor 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 Contractor's or its Subcontractor's sole expense. Whether Contractor's action corrects the noncompliance shall be solely the decision of the System Agency.

- B. As part of the Services, Contractor must provide to System Agency upon request a copy of those portions of Contractor's and its Subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under the Contract.

8.4 STATE AUDITOR'S RIGHT TO 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. The Contractor 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.

8.5 CONFIDENTIALITY

Contractor 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 Data, System Agency's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Contract. The obligations of Contractor under this section will survive termination or expiration of this Contract. This requirement must be included in all subcontracts awarded by Contractor.

ARTICLE IX. CONTRACT REMEDIES AND EARLY TERMINATION

9.1 CONTRACT REMEDIES

To ensure Contractor's full performance of the Contract and compliance with applicable law, the System Agency reserves the right to hold Contractor 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 Contractor to take specific actions in order to remain in compliance with the Contract;
- iii. recouping payments made by the System Agency to the Contractor found to be in error;
- iv. suspending, limiting, or placing conditions on the Contractor's continued performance of Work; or
- v. imposing any other remedies, sanctions, or penalties authorized under this Contract or permitted by federal or state law.

9.2 TERMINATION FOR CONVENIENCE

The System Agency may terminate the Contract, in whole or in part, 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 the System Agency's notice of termination.

9.3 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:

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 Contractor has materially breached the Contract or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of Contractor's duties under the Contract. Contractor's misrepresentation in any aspect of Contractor's Solicitation Response, if any, or Contractor's addition to the System for Award Management (SAM) 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 Contractor no longer maintains the financial viability required to complete the Work, or otherwise fully perform its responsibilities under the Contract.

9.4 CONTRACTOR RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS

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

ARTICLE X. INDEMNITY

10.1 GENERAL INDEMNITY

- A. CONTRACTOR 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 CONTRACTOR 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.**
- B. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE CONTRACTOR TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES**

RESULTING FROM THE NEGLIGENT ACTS OF OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.

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

10.2 INTELLECTUAL PROPERTY

CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE SYSTEM AGENCY AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM:

- i. THE PERFORMANCE OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT;**
- ii. ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR**
- iii. SYSTEM AGENCY'S AND/OR CONTRACTOR'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO SYSTEM AGENCY BY CONTRACTOR OR OTHERWISE TO WHICH SYSTEM AGENCY HAS ACCESS AS A RESULT OF CONTRACTOR'S PERFORMANCE UNDER THE CONTRACT.**

10.3 ADDITIONAL INDEMNITY PROVISIONS

- A. CONTRACTOR AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY INDEMNITY CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES.**
- B. THE DEFENSE SHALL BE COORDINATED BY THE CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL.**
- C. CONTRACTOR SHALL REIMBURSE SYSTEM AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE SYSTEM AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF CONTRACTOR OR IF SYSTEM AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, SYSTEM AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR SHALL PAY ALL REASONABLE COSTS OF SYSTEM AGENCY'S COUNSEL.**

ARTICLE XI. GENERAL PROVISIONS

11.1 AMENDMENT

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

11.2 INSURANCE

- A. Unless otherwise specified in this Contract, Contractor 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. Contractor 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, Contractor 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, Contractor must produce renewal certificates for each type of coverage.
- B. These and all other insurance requirements under the Contract apply to both Contractor and its Subcontractors, if any. Contractor is responsible for ensuring its Subcontractors' compliance with all requirements.

11.3 LIMITATION ON AUTHORITY

- A. The authority granted to Contractor by the System Agency is limited to the terms of the Contract.
- B. Contractor shall not have any authority to act for or on behalf of the System Agency or the State of Texas except as expressly provided for in the Contract; no other authority, power, or use is granted or implied. Contractor may not incur any debt, obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.
- C. Contractor may not rely upon implied authority and is not granted authority under the Contract to:
 - i. Make public policy on behalf of the System Agency;
 - ii. Promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of a System Agency program; or
 - iii. Unilaterally communicate or negotiate with any federal or state agency or the Texas Legislature on behalf of the System Agency regarding System Agency programs or the Contract. However, upon System Agency request and with reasonable notice from System Agency to the Contractor, the Contractor shall assist the System Agency in communications and negotiations regarding the Work under the Contract with state and federal governments.

11.4 LEGAL OBLIGATIONS

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

11.5 CHANGE IN LAWS AND COMPLIANCE WITH LAWS

Contractor shall comply with all laws, regulations, requirements and guidelines applicable to a vendor providing services and products required by the Contract to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended throughout the term of the Contract. System Agency reserves the right, in its sole discretion, to unilaterally amend the Contract to incorporate any modifications necessary for System Agency's compliance, as an agency of the State of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.

11.6 E-VERIFY PROGRAM

Contractor certifies that for Contracts for Services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of the Contract to determine the eligibility of:

- i. all persons employed by Contractor to perform duties within Texas; and
- ii. all persons, including subcontractors, assigned by the Contractor to perform Work pursuant to the Contract within the United States of America.

11.7 PERMITTING AND LICENSURE

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

11.8 SUBCONTRACTORS

Contractor may not subcontract any or all of the Work and/or obligations under the Contract without prior written approval of the System Agency. Subcontracts, if any, entered into by the Contractor shall be in writing and be subject to the requirements of the Contract. Should Contractor subcontract any of the services required in the Contract, Contractor expressly understands and acknowledges that in entering into such Subcontract(s), System Agency is in no manner liable to any subcontractor(s) of Contractor. In no event shall this provision relieve Contractor of the responsibility for ensuring that the services performed under all Subcontracts are rendered in compliance with the Contract.

11.9 INDEPENDENT CONTRACTOR

Contractor and Contractor's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Contract. Neither Contractor nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. Contractor 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 Contractor and System Agency.

11.10 GOVERNING LAW AND VENUE

This 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.

11.11 SEVERABILITY

If any provision of the Contract is held to be illegal, invalid or unenforceable by a court of law or equity, such construction will not affect the legality, validity or enforceability of any other provision or provisions of this Contract. It is the intent and agreement of the Parties this Contract shall be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting another provision that is valid, legal and enforceable and that achieves the same objective. All other provisions of this Contract will continue in full force and effect.

11.12 SURVIVABILITY

Expiration or termination of the Contract for any reason does not release Contractor 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.

11.13 FORCE MAJEURE

Neither Contractor 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.

11.14 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. If the Contractor's claim for breach of contract cannot be resolved informally with the System Agency, the claim shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, the Contractor shall submit written notice, as required by Chapter 2260, to the individual identified in the Contract for receipt of notices. Any informal resolution efforts shall in no way modify the requirements or toll the timing of the formal written notice of a claim for breach of contract required under §2260.051 of the Texas

Government Code. Compliance by the Contractor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.

- B. The contested case process provided in Chapter 2260 is the Contractor's sole and exclusive process for seeking a remedy for an alleged breach of contract by the System Agency if the Parties are unable to resolve their disputes as described above.
- C. Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by the System Agency, the Contractor shall continue performance and shall not be excused from performance during the period of any breach of contract claim or while the dispute is pending. However, the Contractor may suspend performance during the pendency of such claim or dispute if the Contractor has complied with all provisions of Section 2251.051, Texas Government Code, and such suspension of performance is expressly applicable and authorized under that law.

11.15 NO IMPLIED WAIVER OF PROVISIONS

The failure of the System Agency to object to or to take affirmative action with respect to any conduct of the Contractor 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.

11.16 MEDIA RELEASES

- A. Contractor shall not use System Agency's name, logo, or other likeness in any press release, marketing material, or other announcement without System Agency's prior written approval. System Agency does not endorse any vendor, commodity, or service. Contractor is not authorized to make or participate in any media releases or public announcements pertaining to this Contract or the Services to which they relate without System Agency's prior written consent, and then only in accordance with explicit written instruction from System Agency.
- B. Contractor may publish, at its sole expense, results of Contractor performance under the Contract with the System Agency's prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.

11.17 NO MARKETING ACTIVITIES

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.

11.18 PROHIBITION ON NON-COMPETE RESTRICTIONS

Contractor 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.

11.19 SOVEREIGN IMMUNITY

Nothing in the Contract shall 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.

11.20 ENTIRE CONTRACT AND MODIFICATION

This 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.

11.21 COUNTERPARTS

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

11.22 CIVIL RIGHTS

- A. Contractor shall comply with all applicable 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, *et seq.*);
 - v. Title IX of the Education Amendments of 1972 (20 U.S.C. §1681, *et seq.*);
 - 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 Agreement.
- B. Contractor shall comply with all amendments to these 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 service or other benefit provided by Federal or State funding, or otherwise be subjected to discrimination.
- C. Contractor shall 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. Civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Contractor shall take reasonable steps to provide services

and information, both orally and in writing and electronically, 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.

Contractor shall 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>

- D. Contractor shall comply with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 28 CFR Subpart G § 42.503, and Americans with Disabilities Act of 1990 and its implementing regulations at 28 CFR Subpart B §35.130 which includes requiring contractor to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the contractor can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.
- E. Contractor shall comply with federal regulations regarding equal treatment for faith-based organizations under 45 C.F.R. Part 87 or 7 C.F.R. Part 16, as applicable. Contractor shall not discriminate against clients or prospective clients on the basis of religion or religious belief, and shall provide written notice to beneficiaries of their rights.
- F. Upon request, Contractor shall provide the HHSC Civil Rights Office with copies of the Contractor's civil rights policies and procedures.
- G. Contractor 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. This notice 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
Fax: (512) 438-5885.

11.23 ENTERPRISE INFORMATION MANAGEMENT STANDARDS

Contractor shall conform to HHS standards for data management as described by the policies of the HHS Chief Data and Analytics Officer. These include, but are not limited to, standards for documentation and communication of data models, metadata, and other data definition methods that are required by HHS for ongoing data governance, strategic portfolio analysis, interoperability planning, and valuation of HHS System data assets.

11.24 DISCLOSURE OF LITIGATION

- A. The Contractor must disclose in writing to the contract manager assigned to this Contract any material civil or criminal litigation or indictment either threatened or pending involving the Contractor. "Threatened litigation" as used herein shall include governmental investigations and civil investigative demands. "Litigation" as used herein shall include administrative enforcement actions brought by governmental agencies. The Contractor must also disclose any material litigation threatened or pending involving Subcontractors, consultants, and/or lobbyists. For purposes of this section, "material" refers, but is not limited, to any action or pending action that a reasonable person knowledgeable in the applicable industry would consider relevant to the Work under the Contract or any

development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the Work, together with any litigation threatened or pending that may result in a substantial change in the Contractor's financial condition.

- B. This is a continuing disclosure requirement; any litigation commencing after Contract Award must be disclosed in a written statement to the assigned contract manager within seven calendar days of its occurrence.

11.25 NO THIRD-PARTY BENEFICIARIES

The Contract is made solely and specifically among and for the benefit of the Parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the Contract as a third-party beneficiary or otherwise.

11.26 BINDING EFFECT

The Contract shall inure to the benefit of, be binding upon, and be enforceable against, each Party and their respective permitted successors, assigns, transferees, and delegates.

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