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**ALTCS Tribal Case Management Services
CONTRACT # YH23-0002-08**

This Contract is entered into by and between **Native American Community Health Center, Inc. (the Contractor)**, and the **Arizona Health Care Cost Containment System (AHCCCS)**, and shall be effective October 1, 2023 and terminated pursuant to the terms set forth in this agreement.

Project: ALTCS Tribal Case Management Services
Contractor: Native American Community Health Center, Inc.
 4041 N. Central Avenue, Building C
 Phoenix, Arizona 85012
Term of Contract: October 1, 2023 through September 30, 2028 with no option to renew

CERTIFICATION


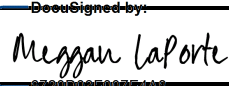
By signing this Contract, the Contractor certifies:

1. The negotiation of this contract did not involve collusion or other anti-competitive practices.
2. The Contractor shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2023-01 or A.R.S. §§ 41-1461 through 1465.
3. The Contractor has not given, offered to give, nor intends 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. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the contract with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Contractor is in compliance with A.R.S. § 18-132 when offering electronics or information technology products, services, or maintenance; and
5. The Contractor is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, state, or local government.

This Contract is the complete and exclusive statement of the understanding between the parties, and it supersedes all proposals, oral or written, and all other documents or communications between the parties relative to the subject matter herein covered, unless such documents or communications are specifically included by reference.

Electronic Submission: An electronic or portable document file (PDF) copy of this contract shall serve as the original.

IN WITNESS THEREOF THE PARTIES HERETO SIGN THEIR NAMES IN AGREEMENT.

NATIVE AMERICAN COMMUNITY HEALTH CENTER, INC.	AHCCCS
SIGNATURE OF AUTHORIZED INDIVIDUAL: 	SIGNATURE: <small>DocuSigned by:</small> 
TYPED NAME: Walter Murillo	TYPED NAME: Meggan LaPorte, CPPO, MSW
TITLE: CEO	TITLE: Chief Procurement Officer
DATE: 8/24/2023	DATE: 8/29/2023

SCOPE OF WORK

1. AHCCCS INTRODUCTION

AHCCCS is the single state Medicaid agency for the State of Arizona. In that capacity it is responsible for operating the Title XIX and Title XXI programs through the State's 1115 Research and Demonstration Waiver, which was granted by the Centers for Medicare and Medicaid Services (CMS), U.S. Department of Health and Human Services. As of July 1, 2023, over 2.3 million Arizonans were enrolled in AHCCCS. Of these, approximately 143,000 American Indian members are served by the American Indian Health Program (AIHP), Tribal Regional Behavioral Health Authorities and by the Tribal Arizona Long Term Care System.

2. PROJECT OR SERVICE OVERVIEW/BACKGROUND

The Arizona Long Term Care System (ALTCS) Tribal Case Management Program provides acute care (general medical care services), behavioral health, long term care, and case management services. These services are offered to American Indian ALTCS members at risk of institutionalization (i.e. those who are elderly and/or have physical disabilities) who reside on a tribal reservation. ALTCS provides services and settings for members who are elderly and/or have physical disabilities and/or have developmental disabilities.

3. PURPOSE

The purpose of this contract is to provide case management services to members deemed eligible for Tribal ALTCS, referring members for medical services, behavioral health services (including services for individuals determined to have a SMI), nursing home care, home and community based services, and acute care services.

AHCCCS Mission and Vision. The AHCCCS Administration's mission and vision is to reach across Arizona to provide comprehensive quality healthcare to those in need while shaping tomorrow's managed health care from today's experience, quality and innovation. The AHCCCS Administration's ALTCS goal is to continuously improve ALTCS's efficiency and effectiveness and support member choice in the delivery of the highest quality long-term care to our customers.

The AHCCCS Administration supports a program that promotes the values of:

1. Choice,
2. Dignity,
3. Independence,
4. Individuality,
5. Privacy, and
6. Self-determination.

ALTCS Guiding Principles

Member-Centered Case Management

The member is the primary focus of the ALTCS program. The member, and family/significant others, as appropriate, are active participants in the planning for and the evaluation of services provided to them. Information and education about the ALTCS program, their choices of options and mix of services shall be accurate and readily available to them.

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Most Integrated Setting

Members are to be maintained in the most integrated setting. To that end, members are afforded choice in remaining in their own home or choosing an alternative residential setting versus entering into an institution.

4. LEGAL AUTHORITY

This solicitation and any resultant contract is being entered into pursuant to A.R.S. § 36-2906, and any rules adopted thereunder.

5. GENERAL REQUIREMENTS

5.1. Contractor Responsibilities:

- 5.1.1. Contractor Personnel. Unless otherwise provided for herein, the personnel providing Contract services shall be employees of the Contractor, shall satisfy qualifications agreed upon by AHCCCS and the Contractor in this Contract, and shall carry out any duties set forth herein. The Contractor shall provide adequate staffing to meet the needs of the ALTCS caseload as stated in Section 5.1.8 (Staffing Requirements) Contract services, of this Contract.

Upon execution of this Contract, the Contractor shall submit a description and chart of the organizational/reporting structure that supports the ALTCS program. At any time thereafter when there are changes to this structure, including relevant personnel changes (case management administration and case managers), the change(s) must be submitted in writing to the Administration (Division of Fee for Service Management/ALTCS Unit) within thirty (30) calendar days of the change.

- 5.1.2. Training of Personnel. The Contractor shall have the responsibility to provide timely and ongoing training on Contract services as described in Section 7 (Key Personnel Requirements, 7.1) herein for all personnel. At a minimum, the ALTCS FFS Manual and AMPM Chapters 1200 and 1600 shall be included as training materials.
- 5.1.3. Professional Standards and Levels of Service. The Contractor shall provide Contract services in accordance with applicable professional standards. The Contractor shall obtain and maintain all applicable licenses, permits and authority required to provide Contract services.
- 5.1.4. Enrolled Members. AHCCCS shall enroll the following ALTCS members with the Contractor to receive case management services (See Attachment A, Contractor's Chart of Deliverables), and the Contractor shall serve such members:
- 5.1.4.1. Those eligible individuals who are members of the federally-recognized tribe(s) listed below, for which the Contractor has entered this agreement and who either live on the reservation(s) of those tribes or did live on the reservation(s) of those tribes immediately prior to placement in an eligible ALTCS facility.
- 5.1.4.2. Eligible American Indians who are not members of the federally-recognized tribe(s) listed below, for which the Contractor has entered this agreement but who currently physically reside on the reservation(s) of those tribes or did physically reside on the reservation(s) of those tribes but were subsequently placed off reservation in an eligible ALTCS facility. Tribes for which the Contractor has entered into this Agreement:
- Ak Chin
 - Camp Verde Yavapai Apache

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- Cocopah
- Colorado River Indian Tribe
- Fort McDowell
- Fort Mohave
- Havasupai
- Hualapai
- Kaibab Paiute
- Quechan
- Salt River Pima Maricopa
- San Juan Southern Paiute
- Tonto Apache
- Yavapai Prescott
- All Non-Arizona American Indian Tribes, when those individuals live on one of the above Arizona reservations.

- 5.1.5. Case Management. Case management is the process through which appropriate and cost effective medical, medically-related social services, and behavioral health services are identified, planned, obtained and monitored for individuals eligible for ALTCS services. The process involves a review of the ALTCS member's strengths and needs by the member, his/her family or representative and the case manager. The review shall result in a mutually agreed upon appropriate and cost effective service plan that meets the medical, functional, social and behavioral health needs of the member in the most integrated setting.

For each member enrolled by AHCCCS, the Contractor shall provide a qualified case manager to perform case management functions as described in AMPM Chapter 1600, including, but not limited to, the following:

- 5.1.5.1. The case manager shall make initial contact with the member within seven (7) working days of enrollment notification and conduct an initial on-site visit with the member within twelve (12) working days of enrollment.
- 5.1.5.2. The case manager shall identify the service needs of a member in conjunction with the member, the member's family and/or significant others, the member's PCP and, if needed, a qualified behavioral health professional as defined in 9 A.A.C. 20.
- 5.1.5.3. The case manager shall ensure program standards for cost effectiveness are met while facilitating appropriate placement/services for the member. Any member living in his/her own home shall be allowed to remain in his/her own home if s/he so chooses and if home and community based services meet cost effectiveness standards as defined in the AMPM and the 1115 waiver. Members living in out-of-home residential settings shall be regularly assessed for their potential to be safely discharged to a more integrated setting.
- 5.1.5.4. Placement within an appropriate setting and/or all services to meet the member's needs shall be provided as soon as possible. A decision regarding the provision of services requested shall be made within fourteen (14) calendar days following the receipt of the request/order (three (3) working days if the member's life, health or ability to attain, maintain or regain maximum function would otherwise be jeopardized).

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- 5.1.5.5. Services for a newly enrolled member must be provided to the member within thirty (30) calendar days of the member's enrollment. Services for an existing member shall be provided within fourteen (14) calendar days following the determination that the services are medically necessary and cost effective.
 - 5.1.5.6. The case manager shall ensure complete, correct, and timely entry of data related to cost effectiveness studies, placement history and service plan into the Client Assessment and Tracking System (CATS) as required by the AMPM, Chapter 1600 and Exhibit 1620-1. "Timely" shall mean within the allowed timeframe of the event that gave rise to the transaction (e.g., service approval by the case manager, placement change).
 - 5.1.5.7. Case management for a member receiving behavioral health services shall be provided in consultation/collaboration with a qualified behavioral health professional (BHP) as specified in A.A.C. R9-10 when the case manager does not meet the qualifications of a BHP. This requirement shall include documentation of an initial and quarterly consultation between the ALTCS case manager and the behavioral health professional.
 - 5.1.5.8. The case manager shall also conduct periodic on-site placement and service reviews at a minimum of every ninety (90) days for HCBS (in-home and alternative residential settings) and at a minimum of every one hundred eighty (180) days for members in an institutional setting. Service monitoring for Acute Care Only (ACO) members must be done every ninety (90) days but may be conducted on-site, via telephone or by certified letter. However, an on-site visit shall be conducted at least annually with ACO members. The purpose of these visits is to determine the continued suitability and cost effectiveness of the services and placement in meeting the member's needs as well as the quality of care delivered by the member's service providers.
 - 5.1.5.9. The results of an action plan from each service review visit shall be documented in the case file. Case file documentation must be complete, comprehensive and legible. It may be written by hand or typewritten. Each case file page shall indicate the member's name and AHCCCS identification number. Each entry made by the case manager shall be signed and dated.
 - 5.1.5.10. The case manager shall be responsible for the transition of and discharge planning for members transferred to another Contractor or disenrolled from the ALTCS program.
- 5.1.6. Prior Authorization. The Contractor is authorized by AHCCCS to conduct prior authorization for ALTCS members enrolled with the Contractor in accordance with policies and procedures as set forth in the AMPM and the ALTCS FFS Manual for most LTC services. However, Contractor case managers shall submit requests for prior authorization and/or medical review to AHCCCS for ALTCS FFS members within one business day of the request for the following LTC services. The requests for prior authorization of the following services shall be submitted to the Division of Fee for Service Management/Tribal ALTCS Unit, except for Physician services, Non-emergency medical transportation, meals, lodging and services of escort, as noted below, which must be submitted to the Division of Fee for Service Management/CMSU Unit.

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- 5.1.6.1. Medical Equipment when the cost of the item exceeds \$500.00,
- 5.1.6.2. Out of State Placements
- 5.1.6.3. Medically necessary incontinence supplies,
- 5.1.6.4. Specialty beds and wound care treatments,
- 5.1.6.5. Specialty facility rates,
- 5.1.6.6. Home Modifications,
- 5.1.6.7. Incontinence supplies,
- 5.1.6.8. Non-emergency hospitalization, including psychiatric hospitalization,
- 5.1.6.9. Podiatry services not covered by Medicare (submit requests to Division of Fee for Service Management/CMSU),
- 5.1.6.10. Physician services for scheduled surgeries not covered by Medicare (submit requests to Division of Fee for Service Management/CMSU),
- 5.1.6.11. Non-emergency medical transportation exceeding 100 miles (submit requests to Division of Fee for Service Management/CMSU), and
- 5.1.6.12. All meals, lodging and services of an escort accompanying a member during transportation as described in Ariz. Admin. Code § R9-22-211(F) (submit requests to Division of Fee for Service Management/CMSU).

The Contractor shall not place a Member in a facility outside of Arizona unless the placement has been prior authorized by AHCCCS-Division of Fee for Service Management (“AHCCCS- DFSM/Tribal ALTCS”). Placement of Members into personal residences outside of the State of Arizona will not be approved by AHCCCS-DFSM. Services rendered outside of the United States are not covered.

- 5.1.7. Denials, Reductions or Terminations of Services. When any covered service subject to prior authorization by the case manager is denied, reduced, suspended or terminated, the Contractor shall comply with the requirement for written notice and explanation of the member’s right to request an appeal or State Fair Hearing as specified in the AHCCCS Guide to Language in Notices of Adverse Benefit Determination (NOA) (<https://www.azahcccs.gov/Resources/Contractor/Manuals/NOA.html>). Denials include those situations when the case manager does not authorize the type or amount/frequency of a service requested by the member.
- 5.1.8. Staffing Requirements. The Contractor shall ensure adequate staffing to meet case management requirements. On a quarterly basis, the Contractor shall submit to AHCCCS (Division of Fee for Service Management/ALTCS Unit) a reporting of case management caseload distribution. This report shall include a plan of corrective action in the event caseload sizes exceed the AHCCCS standard as described below. See Attachment A (Contractor’s Chart of Deliverables).
 - 5.1.8.1. Each case manager’s caseload shall not exceed a weighted value of 96 (Please refer to AMPM 1630).
 - 5.1.8.2. The Contractor shall ensure that, in the absence of the assigned case manager, members/families and providers are given the opportunity to contact a back-up case manager.
 - 5.1.8.3. Case managers with a full caseload shall not spend more than 10% of their time on member-specific non-Title XIX ALTCS case management activities.
 - 5.1.8.4. Case managers shall not provide direct care services to members enrolled with the Contractor but shall authorize appropriate services and/or refer members to appropriate services.

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- 5.1.9. Quality Management. The Contractor shall institute processes to assess, plan, implement and evaluate the quality of care and quality of services provided to Members. The Contractor shall identify quality of care concerns and accept quality of care referrals from any source.
- 5.1.9.1. The Contractor shall assist AHCCCS Division of Fee-for-Service Management Quality Management (“AHCCCS-CQM”) on reporting and performance improvement activities.
 - 5.1.9.2. The Contractor shall inform AHCCCS within one (1) calendar day of its knowledge of high profile incidents/accidents involving Member(s). These high-profile incidents/accidents include any situation or occurrence that involves a Member, provider, and/or the Contractor that has resulted, or has the potential to result, in media attention/involvement.
 - 5.1.9.3. The Contractor shall forward all reports of incident/accident/death, including incidents of abuse, neglect, exploitation, healthcare-acquired conditions and unexpected deaths for all Members to the AHCCCS DFSM-QM Portal. AHCCCS and the Contractor may work collaboratively to investigate and resolve the report.
 - 5.1.9.4. The Contractor shall assist AHCCCS in tracking and trending, and in providing assistance to Members in a timely manner, when quality of care or quality of service concerns exist.
 - 5.1.9.5. The Contractor shall actively participate in data collection and analysis in partnership with AHCCCS. Information shall be shared among AHCCCS, the managed care entities, and Tribal ALTCS programs to improve coordination of care throughout AHCCCS.
 - 5.1.9.6. The Contractor shall assist AHCCCS-CQM, as needed, in the process to resolve quality of care issues. Member and system resolutions may occur independently from one another.
 - 5.1.9.7. The Contractor shall coordinate with AHCCCS when Members placed in facilities must be relocated due to quality of care or quality of service concerns.
- 5.1.10. Notice of Change in Member Status. The Contractor shall notify AHCCCS, via the ALTCS Member Change Report (MCR) process of changes or corrections to the member’s circumstances. This includes but is not limited to changes in residence or placement, third party payers, share of cost, income or resources; a medical condition which could affect eligibility; admission to Arizona State Hospital; no services provided (e.g., member’s refusal to receive ALTCS services) or the member’s death. These changes shall be reported within two (2) business days of the case manager being made aware of them.
- 5.1.11. Placement Outside of Arizona. The Contractor shall obtain written prior approval from AHCCCS before placing a member in a facility outside of Arizona. Out-of-state placements shall only be approved in licensed/certified settings (nursing facilities and alternative residential settings). Personal residences outside the State of Arizona are not approved placements. Services furnished to AHCCCS members outside the United States are not covered. ALTCS members placed out-of-state with approval are eligible for all medically necessary ALTCS covered services. ALTCS members who are temporarily absent from Arizona without authorization from AHCCCS are eligible for acute services only. The Contractor shall report temporary absences from Arizona to the appropriate ALTCS eligibility office for a determination of continued eligibility, through use of the Member Change Report (MCR) process.

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5.1.12. Communication with Members, Members' Families, Stakeholders and Providers:

- 5.1.12.1. The Contractor shall be proactive in communicating information to Members, Members' families, stakeholders, and providers to foster a community that understands the ALTCS health delivery system. Such communication shall include:
- 5.1.12.1.1 How to access services, including emergency behavioral health/crisis services;
 - 5.1.12.1.2 Customer service contact information, for both the Contractor and AHCCCS;
 - 5.1.12.1.3 Information pertaining to new initiatives, projects, programs, and/or opportunities within the tribal ALTCS system; and
 - 5.1.12.1.4 Information describing the AHCCCS-registered provider network.
- 5.1.12.2. Upon request, the Contractor shall assist AHCCCS in the dissemination of information to Members prepared by the federal government or AHCCCS. The cost of disseminating and communicating information to Members will be borne by the Contractor. All advertisements, publications, and printed materials which are produced by the Contractor that refer to AHCCCS-covered services shall state that such services are funded through AHCCCS.
- 5.1.12.3. Communications with Members
- 5.1.12.3.1. Written Communication. The Contractor shall educate Members about covered services, including where and how to access services.
 - 5.1.12.3.2. Member Handbook. The Contractor shall provide each Member with a Member Handbook based on a template provided by AHCCCS that the Contractor may adapt with Contractor-specific information:
 - 5.1.12.3.2.1. The Member Handbook shall be reviewed and updated by the Contractor at least annually.
 - 5.1.12.3.2.2. The Member Handbook shall be provided to Members within twelve (12) business days of enrollment with the Contractor.
 - 5.1.12.3.2.3. The Contractor's updated Member Handbook must be provided to all Members on an annual basis.
- 5.1.12.4. Other information. The Contractor shall provide written materials in an easily understood language and format. When program changes occur, written notification shall be provided to the affected persons at least thirty (30) days before implementation. All informational materials intended for distribution to Members shall be reviewed for accuracy by the Contractor.
- 5.1.12.5. Oral Interpretation Requirements: the Contractor shall make oral interpretation services available free of charge to all persons enrolled with AHCCCS based on eligibility for federally-funded services. This applies to all non-English languages regardless of prevalence.
- 5.1.12.6. Written Translation Requirements:
- 5.1.12.6.1. All materials shall be translated into another language when the Contractor is aware that the other language is primarily spoken by three thousand (3,000) or ten percent (10%), whichever is less, of Members in the service area who also have Limited English Proficiency ("LEP").

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- 5.1.12.6.2. All vital materials shall be translated into another language when the Contractor is aware that the other language is spoken by one thousand (1,000) or five percent (5%), whichever is less, of Members in the service area who also have LEP. Vital materials include, at a minimum, notice for denials, reductions, suspensions or terminations of services and consent forms.
 - 5.1.12.6.3. All written notices informing persons of their right to interpretation and translation services shall be translated when the Contractor is aware that one thousand (1,000) or five percent (5%), whichever is less, of the Members in the service area speak that language and have LEP.
 - 5.1.12.6.4. Written materials shall be available in alternative formats for the visually impaired.
 - 5.1.12.6.5. The Contractor shall inform all Members that information is available in alternative formats and how to access those formats.
- 5.1.12.7. Web Posting/Online Media. The Contractor shall maintain a website that is up to date, informative, relative, and user friendly. The website shall be organized to allow for easy access of information by Members, their family members, providers and stakeholders. The website shall contain at a minimum the following information or links:
- 5.1.12.7.1. How to access services,
 - 5.1.12.7.2. Member Handbook,
 - 5.1.12.7.3. Customer service contact information for the Contractor and AHCCCS,
 - 5.1.12.7.4. Contractor's hours of operation, and
 - 5.1.12.7.5. Information for advocacy organizations, including advocacy for family members.
- 5.1.13. Provider Network. The Contractor shall refer Members to AHCCCS-registered providers, including Indian Health Services and Tribally-owned/operated 638 system providers.
- 5.1.13.1. AHCCCS shall notify the Contractor of changes to the Fee-for-Service provider network due to provider terminations or suspensions. If AHCCCS makes such a change to the provider network, the Contractor shall collaborate with AHCCCS' Division of Fee-For-Service Management ("AHCCCS-DFSM") to ensure Members' continuity of care by identifying Members who need to transition to a different provider.
 - 5.1.13.2. Network Assistance:
 - 5.1.13.2.1. The Contractor shall track gaps in accessibility of services needed by Members, including identifying barriers to accessing care.
 - 5.1.13.2.2. Within five (5) business days of identifying any gaps in AHCCCS-DFSM's provider network and/or any barriers to accessing care, the Contractor shall notify AHCCCS of those identified gaps and/or barriers.
 - 5.1.13.2.3. The Contractor shall assist AHCCCS in identifying any gaps in AHCCCS-DFSM's provider network involving providers with specialized health competencies for children/adolescents and adults including developmental disability, sexual offender treatment, sexual abuse trauma, and adolescent substance abuse services.
 - 5.1.13.2.4. The Contractor shall assist AHCCCS in identifying the number of providers competent in delivering services to Members with developmental

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- disabilities and the number of providers with bilingual capabilities (including sign language).
- 5.1.13.2.5. Nothing in this section shall be construed to require the Contractor to provide AHCCCS with an “inventory” of providers serving Members.
- 5.1.13.2.6. The Contractor shall collaborate with AHCCCS to ensure that providers shall not be restricted or inhibited in any way from communicating freely with, or advocating for, persons regarding:
- 5.1.13.2.6.1. Medical and behavioral health needs and treatment options, even if those service options are not covered by AHCCCS or if an alternative treatment is self-administered;
- 5.1.13.2.6.2. Any information the Member needs in order to decide among all relevant treatment options;
- 5.1.13.2.6.3. The risks, benefits, and consequences of treatment or non-treatment; and
- 5.1.13.2.6.4. The Member’s right to participate in decisions regarding his or her health care, including the right to refuse treatment, and to express preferences about future treatment decisions.
- 5.1.14. Person-Centered Service Planning (PCSP). The Contractor shall monitor services provided to Members to ensure that those services are medically necessary, cost effective, federally reimbursable, and meet all legal and policy requirements in addition to the requirements of AMPM Chapter 1600, the Contractor shall comply with the following:
- 5.1.14.1. Except for the services described in Section 5.1.6 (Prior Authorization) the Contractor may authorize placements and services for Members in compliance with the law and AHCCCS policies including AMPM Chapter 1600.
- 5.1.14.2. If the Contractor authorizes a placement and/or service, it shall notify AHCCCS-DFSM’s Tribal ALTCS Unit.
- 5.1.15. If the Contractor denies authorization for a requested placement or service, the Contractor shall initiate the appropriate appeal process as described in Section 5.1.16 (Member Complaints, Grievances and Appeals). Persons who Have Been Determined to Be Seriously Mentally Ill (“SMI”). Persons who have been determined to be SMI have distinct behavioral health care needs. AHCCCS and the Contractor are committed to meeting the behavioral health care needs of all Members, including persons who have been determined to be SMI. Towards that end, the Contractor shall fulfill the requirements set forth in this section to meet the needs of persons determined to be SMI.
- 5.1.15.1. Determining that a Member is SMI:
A Determining Entity is the AHCCCS designee authorized to make SMI determinations or a Tribal Regional Behavioral Health Authority authorized to make SMI determinations for its assigned tribal members. If a Determining Entity determines that a Member is SMI, the Determining Entity shall notify AHCCCS of the determination. AHCCCS shall then notify the Contractor that the Member is eligible for SMI services.
- 5.1.15.2. If the Contractor suspects that an adult Member is Seriously Mentally Ill as described in A.R.S. § 36-550(4), the Arizona Administrative Code Title 9, Chapter 21, Article 3, and AMPM Policy 320-P, the Contractor shall refer the adult Member to a Determining Entity for a SMI evaluation and eligibility determination.

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- 5.1.15.3. **Delivery of Services.** Delivery of services for persons determined to have a serious mental illness shall comport with Arizona Administrative Code Title 9, Chapter 21, and AMPM Policy 320-R. In addition to the other services described in this Scope of Work, the Contractor shall fulfill the following service delivery requirements for Members who have been determined to have a SMI.
- 5.1.15.4. **Special Assistance.** Special Assistance is the support provided to a person determined to have a SMI who is also unable to articulate treatment preferences and/or participate effectively in the development of the Individual Service Plan (ISP), Inpatient Treatment and Discharge Plan (ITDP), and/or the grievance investigation and/or appeal processes due to cognitive/intellectual impairment and/or a medical condition:
 - 5.1.15.4.1. The Contractor shall require its staff serving persons with a SMI to have the necessary skill and knowledge to identify and refer all persons in need of Special Assistance to the AHCCCS Office of Human Rights (“OHR”).
 - 5.1.15.4.2. The Contractor shall require its staff serving persons with a SMI to communicate regularly with any person designated by OHR (OHR advocate, guardian, family member or friend) to provide Special Assistance to the Member.
- 5.1.15.5. **Housing and Non-Medicaid Services for SMI Members.** At AHCCCS’ discretion and in collaboration with the Contractor, the development of non-Medicaid funded supports shall be based upon the availability of funding, approval of the Contractor’s spending plan for non-Medicaid funded supports, and the identified need of the Contractor’s Members.
- 5.1.15.6. **Off-Reservation Residential Placements or Independent Housing.** The Contractor shall not place SMI Members in a residential program where more than twenty-five percent (25%) of any housing complex can house individuals with a serious mental illness.
- 5.1.15.7. **Supervisory Care Homes and Unlicensed Board & Care Homes:**
 - 5.1.15.7.1. The Contractor shall assess the living situation for all SMI Members to ensure that the Member’s basic needs are met in an environment that is safe, secure, and consistent with their behavioral health needs.
 - 5.1.15.7.2. The Contractor shall ensure that any situations observed that pose a threat to the health or safety of a SMI Members is promptly resolved.
 - 5.1.15.7.3. The Contractor shall assist SMI Members in locating appropriate housing supports, consistent with these Members’ individual needs and preferences.
- 5.1.15.8. **Services for Incarcerated Individuals Determined to be SMI.** The Contractor shall work with jails and prisons to coordinate the discharge and transition of incarcerated SMI Members to ensure the continuation of prescribed medication and other behavioral health services. The Contractor shall collaborate with the appropriate County and Tribal diversion programs to meet the behavioral health needs of SMI Members.
- 5.1.15.9. **Arizona State Hospital.** The Contractor shall collaborate with the Arizona State Hospital administration to agree upon protocols for referral, bed utilization and census management, coordination of care, discharge planning, and dispute resolution. The Contractor shall ensure continuity of care for Members admitted to the Arizona State Hospital, including:
 - 5.1.15.9.1. Diversion of potential admission from the Arizona State Hospital, as appropriate,

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- 5.1.15.9.2. Coordination of the admission process with the Arizona State Hospital Admissions Office,
 - 5.1.15.9.3. Participation in the Arizona State Hospital treatment and discharge planning,
 - 5.1.15.9.4. Forwarding of available clinical and medical record information upon or shortly after admission, and
 - 5.1.15.9.5. Responding promptly to any other requested communication and/or collaboration with the Arizona State Hospital.
- 5.1.16. Member Complaints, Grievances and Appeals. The Contractor shall have in place a written Grievance and Appeal System that defines Members' rights regarding disputed matters with the Contractor. The Contractor's Grievance and Appeal System shall include a complaints process (the procedures for addressing member complaints that are not appeals or grievances), an appeals process, and an SMI appeals and grievance process. The Contractor shall work with each Member to attempt resolution of disputes at the lowest level possible.
- 5.1.16.1. The Contractor shall ensure that it provides written information to Members that clearly explains the Grievance and Appeal System. This written information must include a description of:
 - 5.1.16.1.1. The right to file complaints, appeals, and SMI appeals and grievances;
 - 5.1.16.1.2. The requirements and timeframes for filing complaints, appeals, and SMI appeals and grievances;
 - 5.1.16.1.3. The availability of assistance in the filing process and the toll-free numbers that Members can use to file complaints, appeals, and SMI appeals and grievances;
 - 5.1.16.1.4. That a provider may file an appeal or SMI appeal/grievance on behalf of a Member with the Member's written consent;
 - 5.1.16.1.5. The right to a State fair hearing and the method for obtaining a State fair hearing; and
 - 5.1.16.1.6. The rules that govern representation at the hearing.
 - 5.1.16.2. Complaints. The Contractor shall develop and implement written internal procedures that guide the informal dispute resolution process including timeframes for resolution.
 - 5.1.16.3. Appeals for Members who have not been determined to be SMI:
 - 5.1.16.3.1. For any "action" taken by AHCCCS as defined by Arizona Administrative Code § R9-34-302(A) (e.g. denial of prior authorization for an AHCCCS-covered service), the Contractor shall assist the Member in filing and pursuing any applicable appeal.
 - 5.1.16.3.2. For any "action" taken by the Contractor as defined by Arizona Administrative Code § R9-34-302(A) (e.g. denial of an authorization for an AHCCCS-covered service), the Contractor shall issue a Notice of Action to the Member using the Notice of Action template provided by AHCCCS. The Contractor shall issue the Notice of Action to the Member within the timeframes required of AHCCCS to issue a Notice of Action under Arizona Administrative Code §§ R9-34-306 and 307.

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- 5.1.16.4. Appeals and grievances for Members who have been determined to be SMI:
- 5.1.16.4.1. For any adverse decision made by AHCCCS regarding service and treatment plans, the implementation of service and treatment decisions, assessments and evaluations, or behavioral health services (e.g. denial of prior authorization for an AHCCCS-covered behavioral health service), the Contractor shall assist the Member in filing and pursuing any appeal allowed under Arizona Administrative Code § R9-21-401.
 - 5.1.16.4.2. For any adverse decision made by the Contractor regarding service and treatment plans, the implementation of service and treatment decisions, assessments and evaluations, or behavioral health services (e.g. denial of prior authorization for an AHCCCS-covered behavioral health service), the Contractor shall issue a Notice of Action to the Member using the SMI Notice of Action template provided by AHCCCS. The Contractor shall issue the SMI Notice of Action to the Member at the time that the Contractor informs the Member of the adverse decision.
 - 5.1.16.4.3. The Contractor shall assist a Member with a SMI in filing any grievance allowed by Arizona Administrative Code § R9-21-403. The Contractor shall assist AHCCCS in processing SMI grievances by ensuring its staff comply with procedural requirements including, but not limited to, the provision of required notices to persons with a serious mental illness, participating in an investigation, providing requested documents, and participating in informal conferences or administrative hearings.
 - 5.1.16.4.4. The Contractor shall fully cooperate with AHCCCS in the event AHCCCS decides to intervene in, participate in, or review any Grievance and Appeal System process or proceeding. The Contractor shall comply with or implement any AHCCCS directive within the time specified pending formal resolution of the issue.

5.2. AHCCCS Responsibilities:

- 5.2.1. AHCCCS Oversight of Contractor Monitoring. AHCCCS shall monitor Contract services provided by the Contractor under this Contract. This shall be accomplished through the use of, but not limited to, the following methods:
- 5.2.1.1. Annual Case Management Service Review (CMSR),
 - 5.2.1.2. Monthly case management reports (prepared and distributed by AHCCCS),
 - 5.2.1.3. Corrective Action Plans agreed to by AHCCCS and the Contractor, and
 - 5.2.1.4. Reports, as detailed in Attachment A, submitted by the Contractor to AHCCCS.
- 5.2.2. Service Review. AHCCCS (Division of Fee for Service Management/ALTCS Unit) shall monitor provision of case management services through the Annual Case Management Service Review (CMSR). However, more frequent reviews may be conducted as determined by AHCCCS or, as requested, in writing by the Contractor.
- 5.2.3. Eligibility Determination. AHCCCS shall determine the financial and medical eligibility of each individual applying for ALTCS membership and shall conduct periodic re-determinations of eligibility for existing members. The medical eligibility shall be determined through the Pre-Admission Screening (PAS) instrument.

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- 5.2.4. Provider Registration. AHCCCS shall provide timely registration of qualified providers to ensure their availability to the Contractor for referral.
- 5.2.5. Enrollment/Disenrollment Notification. AHCCCS (Division of Fee for Service Management/ALTCS Unit) shall provide to the Contractor daily notification, via enrollment roster, of any action taken by AHCCCS to either enroll new members with the Contractor or disenroll existing members. In addition, AHCCCS shall provide monthly rosters of members currently enrolled with and requiring case management services from the Contractor.
- 5.2.6. Prior Authorization. Prior authorization of ALTCS and acute services shall be in accordance with ALTCS policies and procedures as set forth in the AMPM and Fee for Service Provider Manual. AHCCCS shall be responsible for giving prior authorization to registered providers for ALTCS FFS members when the following acute care services are being requested:
- 5.2.6.1. Non-emergency hospitalization, including psychiatric hospitalization,
 - 5.2.6.2. Non-Medicare covered podiatry services (for members under 21 years of age),
 - 5.2.6.3. Non-Medicare covered physician services for scheduled surgeries, and
 - 5.2.6.4. Non-emergency transportation between acute care facilities.

Refer to Section 5.1.6 (Prior Authorization) for the list of Long Term Care services for which AHCCCS is also responsible for prior authorization when notified by the Contractor case manager that these services are requested.

- 5.2.7. Training and Technical Assistance. In a timely manner upon execution of this Contract with a Contractor that does not have a current contract with AHCCCS, AHCCCS shall provide introductory training and technical assistance to the Contractor in performing Contract services. This training shall include information on case management policies and procedures and CATS data entry requirements. Thereafter, AHCCCS shall provide the Contractor with periodic CATS training for new case management staff and as determined by AHCCCS throughout the term of this Contract. In addition, AHCCCS may conduct periodic programmatic training as determined necessary by AHCCCS.

5.3. Mainframe System access

- 5.3.1. AHCCCS may grant security access to the AHCCCS mainframe (PMMIS) for any case manager or other appropriate staff for whom the Contractor has completed and submitted the required forms, User Access Request and User Affirmation Statement which are available on the AHCCCS website (URLs, <https://www.azahcccs.gov/PlansProviders/Downloads/ISD/UserAccessRequestForm.docx> and <https://www.azahcccs.gov/PlansProviders/Downloads/ISD/ExternalUserAffirmationStatement.pdf>)
- 5.3.2. The Contractor shall be responsible for computer terminal hardware and data communication equipment enabling the Contractor to access the AHCCCS mainframe system (PMMIS).
- 5.3.3. At the Contractor's request, AHCCCS shall provide technical assistance with regard to the data communication equipment referred to in (5.3.2) above.

6. PAYMENT TERMS

- 6.1. Payments to the Contractor for Case Management:
- 6.1.1. The case management model developed by AHCCCS shall be used to determine the annual budget for the Contractor. The case management model takes into account the number of case managers and other staff assisting or overseeing case management work, salaries, time spent performing duties, caseload ratios, vehicle costs, ERE, and other indirect costs. The model may be updated yearly as new

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information becomes available. Based on the annual budget, AHCCCS shall make monthly payments to the Contractor in compliance with A.R.S. Titles 35 and 36. Payments are conditioned upon the rights and obligations of this Contract and the availability to AHCCCS of funds authorized and appropriated by the State legislature for expenditure in the manner and for the purposes stated in this Contract. AHCCCS or the State shall not be liable for any purchase(s) entered into by the Contractor in anticipation of such funding.

- 6.1.2. Payments made by AHCCCS to the Contractor are conditioned upon receipt by AHCCCS of applicable timely, accurate and complete reports, documentation and any other information due from the Contractor, unless prior written approval waiving such requirement(s) is obtained from the AHCCCS Director or designee. If the Contractor is in any matter in default in the performance of any material obligation under the Contract, including in the process of arbitration, or if financial, compliance or performance audit exceptions are identified, AHCCCS may, at its sole option and in addition to other available remedies, either adjust the amount of payment or withhold payment until satisfactory resolution of the default or exception. The Contractor shall have the right to 30 days written notice of AHCCCS' action in adjusting the amount of payment or withholding payment. Under no circumstances shall AHCCCS authorize payments that exceed an amount specified in this Contract without an approved written amendment to the Contract. AHCCCS may, at its option, withhold final payment to the Contractor until all final reports and deliverables are received.
- 6.1.3. The practices, procedures and standards specified in and required by the State of Arizona Accounting Manual (<http://www.gao.az.gov/publications/SAAM>) and any Uniform Financial Reporting Requirements shall be used by the Contractor in the management, recording and reporting of Contract funds received from AHCCCS and in producing audited financial statements.
- 6.1.4. Funding received through this Contract shall be retained by the Contractor to be used for the sole purpose of providing case management services. All funding received under this Contract must be maintained in a separate fund (account). The Contractor shall provide AHCCCS with a quarterly report detailing all activities in this fund (account). Any funds remaining subsequent to the Contractor's fiscal year end shall be used in accordance with this Contract within 90 days. For funds not expended within 90 days after fiscal year end, the Contractor shall present a plan for AHCCCS' approval describing its plan to utilize remaining funds within 180 days of fiscal year end. The following year's revenue may be adjusted if the Contractor does not provide a reasonable plan to spend remaining funds. Requests for extension of reporting deadlines shall be submitted in writing and must be received by AHCCCS prior to the report due date. Approvals for extension are valid only if issued in writing by AHCCCS.
- 6.1.5. The Contractor shall reimburse AHCCCS upon request, or AHCCCS may deduct from future payments to the Contractor, any amounts determined by AHCCCS to represent:
 - 6.1.5.1. Costs related to case management services which have been inaccurately reported,
 - 6.1.5.2. Costs related to case management services which have not been provided,
 - 6.1.5.3. Costs of case management services for which the Contractor's books, records, and other documents are not sufficient to clearly confirm were used by the Contractor to provide case management services,
 - 6.1.5.4. Costs of case management services sustained as a financial audit exception, or
 - 6.1.5.5. Costs of case management services which have not been provided in accordance with applicable regulations, laws, policies, and this Contract, to include services which AHCCCS has determined to be not necessary.

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6.1.6. No profit is allowed under this Agreement. The Contractor is under no obligation to deliver or pay for services unfunded by the Agreement.

6.2. State General Funding for non-title XIX SMI Services.

6.2.1. Any State General Funds reimbursed for non-title XIX services, including housing, must be spent in accordance with a spending plan approved by AHCCCS for individuals determined to have a serious mental illness.

6.2.2. Mortgages and Financing of Property. AHCCCS shall be under no obligation to assist, facilitate, or help the Contractor secure any mortgage or financing if the Contractor intends to obtain a mortgage or financing for the purchase of real property or construction of buildings on real property.

7. KEY PERSONNEL REQUIREMENTS

7.1. Sufficient Personnel. The Contractor shall have a sufficient number of personnel capable of and devoted to the successful accomplishment of work to be performed under this Agreement. The Contractor shall ensure that all staff have appropriate training, education, experience, orientation, credentialing, and the appropriate licenses, as applicable, to fulfill the requirements of their positions.

7.1.1. Case Managers. The Contractor shall employ a sufficient number of case managers to meet the case management ratios listed in AMPM. The Contractor shall ensure that the Case Managers meet the administrative standards enumerated in AMPM Policy 1630.

7.1.2. Key Personnel. The Contractor shall assign a specific individual or individuals to the following key positions:

7.1.2.1 Director, who has ultimate responsibility to oversee the management of, and adherence to, the requirements set forth in this Agreement.

7.1.2.2 Chief Clinical Officer, who is a licensed registered nurse or behavioral health professional with appropriate education and experience to actively participate in all major clinical decisions and quality management components.

7.1.2.3 Program Administrator, who is a registered nurse or an individual with a master's degree in health services, healthcare administration, or business administration (if not required to make medical necessity determinations). The primary functions of the Program Administrator are:

7.1.2.3.1 Develop, implement, and monitor the provision of care coordination, care management and case management functions; and

7.1.2.3.2 Monitor, analyze and implement appropriate interventions based on utilization data provided by AHCCCS, including identifying and correcting over and underutilization of services.

If Key Personnel are not available for work under this Agreement for a continuous period exceeding thirty calendar days or are expected to devote substantially less effort to the work than initially expected, the Contractor shall notify AHCCCS within seven (7) calendar days, and shall, subject to the concurrence of AHCCCS, replace the Key Personnel with other qualified personnel. When feasible, the Contractor shall provide written notice to AHCCCS thirty (30) calendar days prior to removing Key Personnel.

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7.2. Other Staff Requirements.

7.2.1. In addition to the required Key Personnel listed above, the Contractor shall assign staff to fulfill the following functions:

- 7.2.1.1 Financial Manager, who is responsible for accurate and timely submission of financial reporting requirements,
- 7.2.1.2 Quality Management Administrator, who is responsible for oversight of the quality management requirements of the Agreement and coordinates with AHCCCS-CQM, and
- 7.2.1.3 Immediate Jeopardy Contact, who shall be the point of contact responsible for communicating with AHCCCS to coordinate the care of individuals enrolled with the Contractor during cases of an Immediate Jeopardy (e.g. fires or other public emergency situations). The contact person(s) who is (are) designated by the Contractor shall be accessible 24 hours a day, seven days a week to work with AHCCCS and/or other governmental agencies on urgent issue resolutions.

These staff person(s) shall have 1) access to information necessary to identify members who may be at risk and their current health/service status, 2) ability to initiate new placements/services, and 3) availability to perform status checks at affected facilities and potentially conduct ongoing monitoring, if necessary. The Contractor shall supply AHCCCS with the contact information for these staff persons, such as a telephone number, to call in these urgent situations.

An individual may fulfill more than one staff requirement function so long as that individual can meet all of the duties required of each function by the Agreement.

- 7.2.2. The Contractor shall not use any money provided by AHCCCS under this Agreement to pay for services and/or items furnished by an individual excluded from participation in federal healthcare programs pursuant to 42 U.S.C. § 1320a-7 and/or 42 C.F.R. Parts 1001 or 1002.
- 7.2.3. On a monthly basis, the Contractor shall determine the exclusion status of individuals and entities directly or indirectly funded through the Agreement. This directive includes individuals receiving wages for providing Agreement services. Federal guidance on how to search for the exclusion status of individuals and entities can be found at <https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SMD011609.pdf>.
- 7.2.4. The Contractor shall report any discovery of an excluded individual or entity to AHCCCS-OIG and AHCCCS-DFSM, and shall return to AHCCCS any monies directly or indirectly paid to that individual or entity.

8. REPORTING REQUIREMENTS

8.1. Financial Reporting and Reconciliation

- 8.1.1. The Contractor shall have a system to produce complete, timely, reliable and accurate financial records in accordance with the following requirements for financial reporting:
 - 8.1.1.1 The Contractor shall design and implement its financial operations system to ensure compliance with Generally Accepted Accounting Principles.
 - 8.1.1.2 The Contractor shall submit a quarterly report by the 60th calendar day following the end of each quarter detailing the Title XIX Revenues and Expenditures to AHCCCS. The quarterly report may be used by AHCCCS to reconcile the monthly payments made during the quarter to the Contractor. If there is an overpayment or underpayment, AHCCCS may adjust future

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payments to the Contractor accordingly to make the account whole. Failure of the Contractor to submit timely quarterly financial reports shall result in payment delays to the Contractor.

- 8.1.1.3 The Contractor shall submit a Quarterly Certification Statement that actual costs are in accordance with OMB Circular A-87.
- 8.1.1.4 The Contractor is required to submit annual audited Financial Statements prepared in accordance with OMB Circular A-133 within 9 months after the Contractor's fiscal year end.
- 8.1.1.5 All costs allocable to Title XIX that have been treated as indirect costs have not been claimed as direct costs elsewhere.
- 8.1.1.6 The Contractor shall submit a copy of indirect cost percentage letters from the federal government upon receipt by the Contractor.

8.1.2. Requests for extension of reporting deadlines shall be submitted in writing and must be received by AHCCCS prior to the report due date. Approvals for extension are valid only if issued in writing by AHCCCS.

8.2. Health Insurance Portability and Accountability Act (HIPAA).

The Contractor shall comply with the Administrative Simplification requirements of Subpart F of the HIPAA 1996 (Public Law 104-191,110 Statutes 1936) and all Federal regulations implementing the Subparts that are applicable to the operations of the Contractor by the dates required by Federal regulations.

DEFINITIONS

As used in this Contract, the terms listed below are defined as follows:

- 1.0 **A.A.C.:** Arizona Administrative Code.
- 2.0 **Acute Care Only (ACO):** Means those ALTCS members who have been determined, according to criteria outlined in Chapter 300, Section 302.02 of the Eligibility Policy Manual to be eligible for only acute care services.
- 3.0 **Acute Care Services:** means medically necessary services as defined in A.R.S. § 36-2907 and 9 A.A.C. 22, Article 2 that are covered for AHCCCS members.
- 4.0 **Administration:** The Arizona Health Care Cost Containment System Administration (AHCCCS).
- 5.0 **AHCCCS:** The Arizona Health Care Cost Containment System – a managed health care program which pertains to health care services provided pursuant to A.R.S. 36-2903 et seq., and is also the name of the State agency.
- 6.0 **ALTCS:** The Arizona Long Term Care System as authorized by A.R.S. § 36-2931 et seq.
- 7.0 **ALTCS Services:** Medically necessary services as defined in A.R.S. § 36-2939 and 9 A.A.C. 28, Article 2 that eligible members may be authorized to receive.
- 8.0 **Alternative Residential Setting:** Those licensed or certified non-institutional settings, as defined in AMPM Chapter 1200, which have been approved by AHCCCS as acceptable living arrangements for ALTCS members. The cost of room and board in an alternative residential setting is not covered by ALTCS.
- 9.0 **AMPM:** The AHCCCS Medical Policy Manual, AHCCCS's manual and any amendments thereto, which sets forth Administration standards and describes the responsibilities of AHCCCS and ALTCS Contractors for providing covered services to enrolled ALTCS members. Said manual is incorporated herein by reference and is available to the Contractor on the AHCCCS website (www.azahcccs.gov).
- 10.0 **A.R.S.:** Arizona Revised Statutes.
- 10.1 **Case Management:** A process that will direct members to the most appropriate type, amount, and duration of ALTCS services, as defined in the AMPM. This process includes the responsibility to continually monitor and reassess a member's need for those services.
- 11.0 **Case Manager:** A person who meets the approved qualifications to perform case management and who is either a degreed social worker, a licensed registered nurse, or an individual with a minimum of two (2) years' experience in providing case management services to persons who are elderly and/or persons with physical or developmental disabilities.
- 12.0 **Client Assessment and Tracking System (CATS):** A component of AHCCCS's data management information system (PMMIS) that supports ALTCS and that is designed to provide key member information to, and receive case management information from, the Contractor.
- 13.0 **CFR:** Code of Federal Regulations.

DEFINITIONS

- 14.0 **CMS:** Centers for Medicare/Medicaid Services (formerly known as Health Care Financing Administration), an organization within the U.S. Department of Health and Human Services, which administers Medicare, Medicaid and the State Children's Health Insurance Program.
- 15.0 **Contract:** The combination of the Contract Terms and Conditions, and Scope of Work; Contract Amendments; and any terms applied by law.
- 16.0 **Contract Amendment:** A written document signed by the Procurement officer that is issued for the purpose of making changes in the contract.
- 17.0 **Contract Services:** Case management services authorized by this Contract.
- 18.0 **Critical Services:** Attendant Care, Personal Care, Homemaker and/or In-Home Respite.
- 19.0 **Contractor:** A person who has a contract with AHCCCS.
- 20.0 **Day(s):** Calendar days unless otherwise specified.
- 21.0 **Director:** The Director of the Arizona Health Care Cost Containment System Administration.
- 22.0 **Fee-For-Service (FFS):** A method of payment to registered providers on an amount-per-service basis. AHCCCS covered services provided to members enrolled with the Contractor are paid on a FFS basis.
- 23.0 **FFS Manual:** The Fee for Service Manual, developed by the Division of Fee for Service Management, sets forth policies and procedures for Tribal Contractors and Contractors in providing ALTCS case management. Said manual is incorporated by reference and is available to the Contractor on the AHCCCS website (www.azahcccs.gov). Periodically thereafter, amendments to same shall be provided by AHCCCS to the Contractor.
- 24.0 **Gratuity:** A payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 25.0 **HCBS:** Home and Community Based Services, as defined in A.R.S. § 36-2931 and 36-2939.
- 26.0 **Health Plan:** An organization which contracts with the AHCCCS Administration to administer the provision of a comprehensive package of AHCCCS covered acute and behavioral health care services to AHCCCS members enrolled with the health plan.
- 27.0 **HIPAA:** The Health Insurance Portability and Accountability Act of 1996, the privacy rules, as set forth in Title 45, Parts 160 and 164 of the CFR to establish national standards for electronic health care transactions and national identifiers for providers, health insurance plans and employers. HIPAA also addresses the security and privacy of Protected Health Information (PHI) and regulates the extent of use and/or disclosure of PHI.
- 28.0 **Home:** The ALTCS member's place of residence pursuant to A.A.C. R9-28-101. This does not include alternative residential settings.
- 29.0 **Independent Provider:** A provider of ALTCS services who is registered with AHCCCS as an individual, not an employee of a provider agency. The independent provider negotiates a reimbursement rate directly with the Contractor and is responsible for the submission of his or her own claims for payment of services.

DEFINITIONS

- 30.0 **May:** Indicates something that is not mandatory but is permissible.
- 31.0 **Materials:** All property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
- 32.0 **Medicaid:** A federal/state program authorized by Title XIX of the Social Security Act, as amended. The AHCCCS Administration administers the Medicaid program in the State of Arizona. ALTCS is a Medicaid program.
- 33.0 **Medically Necessary:** A covered service provided by a physician or other licensed practitioner of the healing arts within the scope of practice under State law to prevent disease, disability, or other adverse health conditions or their progression, or prolong life.
- 34.0 **Member:** An individual who is eligible for ALTCS case management services provided by the Contractor and who is enrolled with the Contractor.
- 35.0 **Nursing Facility:** A facility that is licensed and Medicare/Medicaid certified by the Arizona Department of Health Services in accordance with 42 CFR 483 to provide inpatient room, board and nursing services to members who require these services on a continuous basis but who do not require hospital care or direct daily care from a physician.
- 36.0 **PAS:** Pre-admission Screening, the process of determining an individual's risk of institutionalization at a nursing facility level of care as specified in 9 A.A.C. 28, Article 3. This screening is performed by AHCCCS (Division of Member Services) as part of the ALTCS eligibility process.
- 37.0 **PMMIS:** Pre-Paid Medical Management Information System. This computer system stores relevant information about AHCCCS eligible members and providers. The Contractor enters member placement and service authorization data in CATS, a subsystem of PMMIS.
- 38.0 **Primary Care Provider/Practitioner (PCP):** An individual who meets the requirements of A.R.S. § 36-2901, and who is responsible for the management of the member's health care, as defined in 9 A.A.C. 22, Article 2.
- 39.0 **Prior Authorization:** The process by which AHCCCS or the Contractor, whichever is applicable, authorizes in advance the provision of covered services contingent on their medical necessity. Authorization is not a guarantee of payment.
- 40.0 **Procurement Officer:** The person, or his or her designee, duly authorized by the State and AHCCCS to enter into and administer Contracts and make written determinations with respect to the Contract.
- 41.0 **Protected Health Information (PHI):** Health and demographic information about an individual that is transmitted or maintained in any medium where the information: 1) is created or received by a health care component of a health care provider, health plan, employer or health care clearinghouse; and 2) relates to the past, present or future physical or mental health condition of an individual, provision of health care to an individual, or payment for the provision of health care to an individual.
- 42.0 **Provider:** Any individual or entity that is engaged in the delivery of services, or ordering or referring for those services, and is legally authorized to do so by the State in which it delivers the services, as specified in 42 CFR 457.10 and 42 CFR 438.2.

DEFINITIONS

- 43.0 **Quality Management:** A methodology used by professional health personnel that assesses the degree of conformance to desired medical standards and practices; and activities designed to improve and maintain quality service and care, performed through a formal program, with involvement of multiple organizational components and committees.
- 44.0 **Service Gap:** The difference between the number of hours of home care worker critical service scheduled in each member's HCBS service plan and the hours of the scheduled type of critical service that are actually delivered to the member.
- 45.0 **Person-Centered Service Plan:** A written plan developed through an assessment of functional need that reflects the services and supports (paid and unpaid) that are important for and important to the member in meeting the identified needs and preferences for the delivery of such services and supports. The Person-Centered Service Plan shall also reflect the member's strengths and preferences that meet the member's social, cultural and linguistic needs, individually identified goals and desired outcomes, and reflect risk factors (including risks to member rights) and measures in place to minimize them, including individualized back-up plans and other strategies as needed. Detailed standards for establishing and maintaining the Person-Centered Service Plan can be found in the AMPM 1600 and ALTCS FFS Manual.
- 46.0 **Shall, Must:** Indicates a mandatory requirement.
- 47.0 **Should:** Indicates something that is recommended but not mandatory. If the Offeror fails to provide recommended information, the State may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.
- 48.0 **Scope of Work:** Those provisions of this solicitation which specify the work and/or results to be achieved by the Contractor.
- 49.0 **Subcontract:** Any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 50.0 **State:** The State of Arizona.
- 51.0 **State Fiscal Year:** The period beginning with July 1 and ending June 30.
- 52.0 **Title XIX:** Medicaid as defined in Title 42 of the United States Code, Chapter 7, Title 19 as now written or as subsequently amended.
- 53.0 **Utilization Review:** A methodology used by professional health personnel that assesses the medical indications, appropriateness, and efficiency of care provided.
- 54.0 **1115 Waiver:** The type of waiver AHCCCS has from the Centers for Medicare and Medicaid Services (CMS) to operate the various Medicaid programs in Arizona, including the ALTCS program.

UNIFORM TERMS AND CONDITIONS

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1. DEFINITIONS - All definitions listed in the definition of terms.

2. Contract Interpretation

- 2.1 Arizona Law. The Arizona law applies to this Contract including, A.R.S. § 36-2906 and its implementing rules.
- 2.2 Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3 Removed
- 2.4 Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5 Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6 No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7 No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

- 3.1 Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each Subcontractor to retain any and all Data and other "records" relating to the acquisition and performance of the Contract for a period of five (5) years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2 Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and any and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3 Audit. Pursuant to A.R.S. § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any Subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4 Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, Subcontractor facilities, and the Contractor's processes or services, at reasonable times for inspection of the facilities or Materials covered under this Contract as required under A.R.S. § 41-2547. The State shall also have the right to test, at its own cost, the Materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor Materials testing shall constitute final acceptance of the Materials or Services. If the State determines non-compliance of the Materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.
- 3.5 Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation, stated in the Contract, or listed on the State's

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- eProcurement system. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6 Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7 Continuous Improvement. Contractor shall recommend continuous improvements on an on-going basis in relation to any Materials and Services offered under the Contract, with a view to reducing State costs and improving the quality and efficiency of the provision of Materials or Services. State may require Contractor to engage in continuous improvements throughout the term of the Contract.
- 3.8 Other Contractors. State may undertake on its own or award other contracts to the same or other suppliers for additional or related work. In such cases, the Contractor shall cooperate fully with State employees and such other suppliers and carefully coordinate, fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the Contract requires handing-off Contractor's work to others, Contractor shall cooperate as State instructs regarding the necessary transfer of its work product, Materials, Services, or records to State or the other suppliers. Contractor shall not commit or permit any act that interferes with the State's or other suppliers' performance of their work, provided that, State shall enforce the foregoing section equitably among all its suppliers so as not impose an unreasonable burden on any one of them.
- 3.9 Ownership of Intellectual Property
- 3.9.1 Rights In Work Product. All intellectual property originated or prepared by Contractor pursuant to the Contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the Contract, are considered work product and Contractor's property, provided that, State has Government Purpose Rights to that work product as and when it was delivered to State.
- 3.9.2 "Government Purpose Rights" are:
- 3.9.2.1 the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which State is a party;
- 3.9.2.2 the right to release or disclose that work product to third parties for any State government purpose; and
- 3.9.2.3 the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any State government purpose; such recipients being understood to include the federal government, the governments of other states, and various local governments.
- 3.9.3 "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from or disclose that work product for any commercial purpose, or to authorize others to do so.
- 3.9.4 Joint Developments. The Contractor and State may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.
- 3.9.5 Pre-existing Material. All pre-existing software and other Materials developed or otherwise obtained by or for Contractor or its affiliates independently of the Contract or applicable

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Purchase Orders are not part of the work product to which rights are granted State under subparagraph 3.9.1 above, and will remain the exclusive property of Contractor, provided that:

- 3.9.5.1 any derivative works of such pre-existing Materials or elements thereof that are created pursuant to the Contract are part of that work product;
- 3.9.5.2 any elements of derivative work of such pre-existing Materials that was not created pursuant to the Contract are not part of that work product; and
- 3.9.5.3 except as expressly stated otherwise, nothing in the Contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing Materials.
- 3.9.6 Developments Outside Of Contract. Unless expressly stated otherwise in the Contract, this Section does not preclude Contractor from developing competing Materials outside the Contract, irrespective of any similarity to Materials delivered or to be delivered to State hereunder.
- 3.10 Property of the State. If there are any materials that are not covered by Section 3.9 above created under this Contract, including but not limited to, reports and other deliverables, these materials are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.11 Federal Immigration and Nationality Act. Contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, Contractor shall flow down this requirement to all Subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of Contractor and Subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor or any Subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to: suspension of work, termination of the contract for default and suspension or debarment of the contractor.
- 3.12 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23- 214, Subsection A.
- 3.13 Offshore Performance of Work involving Data is Prohibited. Any Services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to Data shall be performed within the defined territories of the United States.
- 3.14 Certifications Required by State Law.
 - 3.14.1 If Contractor is a Company as defined in A.R.S. § 35-393, Contractor certifies that it is not currently engaged in a boycott of Israel as described in A.R.S. §§ 35-393 et seq. and will refrain from any such boycott for the duration of this Contract.
 - 3.14.2 Contractor further certifies that it shall comply with A.R.S. § 35-394, regarding use of the forced labor of ethnic Uyghurs, as applicable.

4. Costs and Payments

- 4.1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of Materials or Services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.
- 4.2 Applicable Taxes
 - 4.2.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

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- 4.2.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.
- 4.2.3 Tax Indemnification. Contractor and all Subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all Subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.
- 4.2.4 IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.
- 4.3 Availability of Funds for the Next State Fiscal Year. Funds may not presently be available for performance under this Contract beyond the current State Fiscal Year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current State Fiscal Year until funds are made available for performance of this Contract.
- 4.4 Availability of Funds for the Current State Fiscal Year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these Materials or Services are not funded, the State may take any of the following actions:
 - 4.4.1 Accept a decrease in price offered by the Contractor;
 - 4.4.2 Cancel the Contract; or
 - 4.4.3 Cancel the Contract and re-solicit the requirements.

5. Contract Changes

- 5.1 Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of Services or Materials, the revision of payment terms, or the substitution of Services or Materials, directed by a person who is not specifically authorized by the Procurement Officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.
- 5.2 Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of the Procurement Officer as described in Arizona State Procurement Office Standard Procedure 002. The Contractor shall clearly list any proposed Subcontractors and the Subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.
- 5.3 Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

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6. Risk and Liability

- 6.1 Risk of Loss. The Contractor shall bear all loss of conforming Materials covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming Materials shall remain with the Contractor regardless of receipt.
- 6.2 Indemnification
- 6.2.1 Contractor/Vendor Indemnification (Not Public Agency). To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or Subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation Insurance and Indemnification Guidelines for State of Arizona Contracts Professional Service Contracts against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnity shall not apply if the Contractor or Subcontractor(s) is/are an agency, board, commission or university of the State of Arizona.
- 6.2.2 Public Agency Language Only. Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.
- 6.3 Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of Materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the Contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this paragraph shall not apply.
- 6.4 Force Majeure.
- 6.4.1 Except for payment of sums due, neither the Contractor nor State shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes: acts of God, acts of the

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public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts, injunctions-intervention-acts, failures or refusals to act by government authority, and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

- 6.4.2 Force Majeure shall not include the following occurrences:
- 6.4.2.1 Late delivery of equipment, Materials, or Services caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;
 - 6.4.2.2 Late performance by a Subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
 - 6.4.2.3 Inability of either the Contractor or any Subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.
- 6.4.3 If either the Contractor or State is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.
- 6.4.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.
- 6.5 Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern Materials or Services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. Warranties

- 7.1 Liens. The Contractor warrants that the Materials supplied under this Contract are free of liens and shall remain free of liens.
- 7.2 Quality. Unless otherwise modified elsewhere in the Special Terms and Conditions, the Contractor warrants that, for one (1) year after acceptance by the State of the Materials, they shall be:
- 7.2.1 Of a quality to pass without objection in the trade under the Contract description;
 - 7.2.2 Fit for the intended purposes for which the Materials are used;
 - 7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
 - 7.2.4 Adequately contained, packaged, and marked as the Contract may require; and
 - 7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.
- 7.3 Conformity to Requirements.
- 7.3.1 Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the Materials and Services will for one (1) year after acceptance and in each instance:
 - 7.3.1.1 Conform to the requirements of the Contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any and all Contractor affirmations included as part of the Contract;
 - 7.3.1.2 Be free from defects of material and workmanship;
 - 7.3.1.3 Conform to or perform in a manner consistent with current industry standards; and

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- 7.3.1.4 Be fit for the intended purpose or use described in the Contract.
- 7.3.2 Mere delivery or performance does not substitute for express acceptance by the State. Where inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation or invoicing, the forgoing warranty will not begin until State's explicit acceptance of the Materials or Services.
- 7.4 Inspection/Testing. The warranties set forth in this Section 7 [Warranties] are not affected by inspection or testing of or payment for the Materials or Services by the State.
- 7.5 Contractor Personnel. Contractor warrants that its personnel will perform their duties under the Contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the Contract. Contractor further warrants that its key personnel will maintain any and all certifications relevant to their work, and Contractor shall provide individual evidence of certification to State's authorized representatives upon request.
- 7.6 Compliance With Applicable Laws. The Materials and Services supplied under this Contract shall comply with all applicable federal, state, and local laws and policies (including, but not limited to, information technology policies, standards, and procedures available on the State's website and/or the website of any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of the State of Arizona). Federal requirements may be incorporated into this Contract, if required, pursuant to A.R.S. § 41-2637. Contractor shall maintain any and all applicable license and permit requirements. This requirement includes, but is not limited to, any and all Arizona state statutes that impact state contracts, regardless of whether those statutory references have been removed during the course of contract negotiations; this is notice to Contractors that the State does not have the authority to modify Arizona state law by contract.
- 7.7 Intellectual Property. Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.
- 7.8 Licenses and Permits. Contractor warrants that it will maintain all licenses required to fully perform its duties under the Contract and all required permits valid and in force.
- 7.9 Operational Continuity. Contractor warrants that it will perform without relief notwithstanding being sold or acquired; no such event will operate to mitigate or alter any of Contractor's duties hereunder absent a consented delegation under paragraph 5.3 [Assignment and Delegation] that expressly recognizes the event.
- 7.10 Performance in Public Health Emergency. Contractor warrants that it will:
- 7.10.1 Have in effect, promptly after commencement, a plan for continuing performance in the event of a declared public health emergency that addresses, at a minimum:
- 7.10.1.1 Identification of response personnel by name;
- 7.10.1.2 Key succession and performance responses in the event of sudden and significant decrease in workforce; and
- 7.10.1.3 Alternative avenues to keep sufficient product on hand or in the supply chain.
- 7.10.2 Provide a copy of its current plan to State within three (3) business days after State's written request. If Contractor claims relief under paragraph 6.4 [Force Majeure] for an occurrence of force majeure that is a declared public health emergency, then that relief will be conditioned on Contractor having first implemented its plan and exhausted all reasonable opportunity for that plan implementation to overcome the effects of that occurrence, or mitigate those effects to the extent that overcoming entirely is not practicable.

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- 7.10.3 A request from the State related to this paragraph 7.10 does not necessarily indicate that there has been an occurrence of force majeure, and the Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement a plan.
- 7.10.4 Failure to have or implement an appropriate plan will be a material breach of contract.
- 7.11 Lobbying
- 7.11.1 Prohibition. Contractor warrants that it will not engage in lobbying activities, as defined in 40 Code of Federal Regulations (CFR) part 34 and A.R.S. § 41-1231, et seq., using monies awarded under the Contract, provided that, the foregoing does not intend to constrain Contractor's use of its own monies or property, including without limitation any net proceeds duly realized under the Contract or any value thereafter derived from those proceeds; and upon award of the Contract, it will disclose all lobbying activities to State to the extent they are an actual or potential conflict of interest or where such activities could create an appearance of impropriety. Contractor shall implement and maintain adequate controls to assure compliance with above. Contractor shall obtain an equivalent warranty from all Subcontractors and shall include an equivalent no-lobbying provision in all Subcontracts.
- 7.11.2 Exception. This paragraph 7.11 does not apply to the extent that the Services are defined in the Contract as being lobbying for State's benefit or on State's behalf.
- 7.12 Covered Telecommunications or Services. Contractor warrants that the Materials and Services rendered under this Agreement will not require Contractor to use for the State, or provide to the State to use, "covered telecommunications equipment or Services" as a substantial or essential component of any system, or as critical technology as part of any system, within the meaning of Federal Acquisition Regulation ("FAR") Section 52.204-25.
- 7.13 Debarment, Suspension, U.S. Government Restricted Party Lists. Contractor warrants that it is not, and its Subcontractors are not, on the U.S. government's Denied Parties List, the Unverified List, the Entities List, the Specially Designated Nationals and Blocked Parties List, and neither the Contractor nor any Subcontractors are presently debarred, suspended, proposed for debarment or otherwise declared ineligible for award of federal contracts or participation in federal assistance programs or activities.
- 7.14 False Statements. Contractor represents and warrants that all statements and information Contractor prepared and submitted in response to the Solicitation or as part of the Contract documents are current, complete, true, and accurate. If the Procurement Officer determines that Contractor submitted an Offer or Bid with a false statement, or makes material misrepresentations during the performance of the Contract, the Procurement Officer may determine that Contractor has materially breached the Contract and may void the submitted Offer or Bid and any resulting Contract.
- 7.15 Survival of Rights and Obligations after Contract Expiration or Termination.
- 7.15.1 Survival of Warranty. All representations and warranties made by Contractor under the Contract will survive the expiration or earlier termination of the Contract.
- 7.15.2 Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12- 529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

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8. State's Contractual Remedies

- 8.1 Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 8.2 Stop Work Order.
- 8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- 8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 8.3 Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.
- 8.4 Nonconforming Tender. Materials or Services supplied under this Contract shall fully comply with the Contract. The delivery of Materials or Services or a portion of the Materials or Services that do not fully comply constitutes a breach of contract. On delivery of nonconforming Materials or Services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.
- 8.5 Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9. Contract Termination

- 9.1 Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2 Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State with the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover

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exemplary damages in the amount of three (3) times the value of the Gratuity offered by the Contractor.

- 9.3 Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a Subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the Contractor is not currently suspended or debarred. If the Contractor becomes suspended or debarred, the Contractor shall immediately notify the State.
- 9.4 Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all Subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, Data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed, and Materials or Services accepted before the effective date of the termination. The cost principles and procedures provided in A.R.S. § 41-2543 and A.A.C. Title 2, Chapter 7, Article 7, shall apply.
- 9.5 Termination for Default.
- 9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.
- 9.5.2 Upon termination under this paragraph, all goods, Materials, documents, Data, and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.
- 9.5.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, Materials or Services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring Materials or Services in substitution for those due from the Contractor.
- 9.6 Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this Contract through arbitration, after exhausting applicable administrative review.

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1. **Assignment of Contract and Bankruptcy:** This contract is voidable and subject to immediate cancellation by the Procurement officer upon Contractor becoming insolvent or filing proceedings in bankruptcy or assigning rights or obligations under this contract without the prior written consent of the Procurement officer.
2. **Choice of Forum:** The parties agree that jurisdiction over any action arising out of or relating to this contract shall be brought or filed in a court of competent jurisdiction located in the State of Arizona.
3. **Conflict of Interest:** The Contractor shall not undertake any work that represents a potential conflict of interest, or which is not in the best interest of AHCCCS or the State without prior written approval by AHCCCS. The Contractor shall fully and completely disclose any situation that may present a conflict of interest. If the Contractor is now performing or elects to perform during the term of this contract any services for any AHCCCS health plan, provider or Contractor or an entity owning or controlling same, the Contractor shall disclose this relationship prior to accepting any assignment involving such party.
4. **Contract Cancellation (Immediate):** This contract is critical to AHCCCS and the agency reserves the right to immediately cancel the whole or any part of this contract due to failure of the Contractor to carry out any material obligation, term or condition of the contract. The Procurement officer shall issue a written notice of default effective at once and not deferred by any interval of time. Default shall be for acting or failing to act in any of the following:
 - 4.1 The Contractor provides material that does not meet the specifications of the contract;
 - 4.2 The Contractor fails to adequately perform the services set forth in the specifications of the contract;
 - 4.3 The Contractor fails to complete the work required or furnish the materials required within the time stipulated in the contract;
 - 4.4 The Contractor fails to make progress in the performance of the contract and/or gives the Procurement officer reason to believe that the Contractor will not or cannot perform to the requirements of the contract.
 - 4.5 The Procurement officer may resort to any single or combination of the following remedies:
 - 4.5.1 Cancel any contract;
 - 4.5.2 Reserve all rights or claims to damage for breach of any covenants of the contract;
 - 4.5.3 Perform any test or analysis on materials for compliance with the specifications of the contract. If the result of any test confirms a material non-compliance with the specifications, any reasonable expense of testing shall be borne by the Contractor.
 - 4.5.4 In case of default, the Procurement officer reserves the right to purchase materials or to complete the required work in accordance with the Arizona Procurement Code. The Procurement officer may recover reasonable excess costs from the Contractor by:
 - 4.5.4.1 Deduction from an unpaid balance;
 - 4.5.4.2 Collection against the bid and/or performance bond; or
 - 4.5.4.3 Any combinations of the above or any other remedies as provided by law.
5. **Contract Cancellation (Minimum 10 Day):** The Procurement officer reserves the right to cancel the whole or any part of this contract due to failure by the Contractor to carry out any material obligation, term or condition of the contract. The Procurement officer shall issue written notice to the Contractor for acting or failing to act as in any of the following:
 - 5.1 The Contractor provides material that does not meet the specifications of the contract;
 - 5.2 The Contractor fails to adequately perform the services set forth in the specifications of the contract;

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- 5.3 The Contractor fails to complete the work required or furnish the materials required within the time stipulated by the contract;
 - 5.4 The Contractor fails to make progress in the performance of the contract and/or gives the Procurement officer reason to believe that the Contractor will not or cannot perform to the requirements of the contract;
 - 5.5 Upon receipt of the written notice of concern, the Contractor shall have a minimum of ten (10) days (Procurement officer may determine a longer period) to provide a satisfactory response to the Procurement officer. Failure on the part of the Contractor to adequately address all issues of concern may result in the Procurement officer resorting to any single or combinations of the following remedies.
 - 5.5.1 Cancel any contract;
 - 5.5.2 Reserve all rights or claims to damage for breach of any covenant of the contract;
 - 5.5.3 Perform any test or analysis on materials for compliance with the specifications of the contract. If the result of any test confirms a material no-compliance with the specifications, any reasonable expense of testing shall be borne by the Contractor;
 - 5.5.4 In case of default, the Procurement officer reserves the right to purchase materials, or to complete the required work in accordance with the Arizona Procurement Code. The Procurement officer may recover reasonable excess costs from the Contractor by:
 - 5.5.4.1 Deduction from an unpaid balance;
 - 5.5.4.2 Collection against the bid and/or performance bond; or
 - 5.5.4.3 Any combination of the above or any other remedies as provided by law.
- 6 **Contract Disputes:** Contract disputes arising under A.R.S. § Title 36, Chapter 29 shall be adjudicated in accordance with AHCCCS Rules.
- 7 **Confidentiality of Records and Disclosure of Confidential Information:**
- 7.1 The Contractor shall not, without prior written approval from AHCCCS, either during or after the performance of the services required by this contract, use, other than for such performance, or disclose to any person other than AHCCCS personnel with a need to know, any information, data, material, or exhibits created, developed, produced, or otherwise obtained during the course of the work required by this contract. This nondisclosure requirement shall also pertain to any information contained in reports, documents, or other records furnished to the Contractor by AHCCCS.
 - 7.2 The Contractor shall establish and maintain written policies procedures and controls, approved by AHCCCS, governing access to, duplication of, and dissemination of all such information for the purpose of assuring that no information contained in its records or obtained from AHCCCS or others carrying out its functions under the contract, is used or disclosed by it, its agents, officers or employees, except as required to efficiently perform duties under the contract. Persons requesting such information shall be referred to AHCCCS. The Contractor's data safeguard program shall further conform to the data confidentiality and security requirements of AHCCCS policy and procedures, and all-relevant state and federal requirements, including HIPAA standards.
 - 7.3 The disclosure of information in summary, statistical, or other form that does not identify particular individuals is permitted only with prior AHCCCS approval. The use or disclosure of information concerning Members will be limited to purposes directly connected with the scope of this contract.
 - 7.4 The Contractor shall advise its employees, agents and subcontractors, if any, that they are subject to these confidentiality requirements. A signed confidentiality statement containing language approved by AHCCCS will be obtained from all employees, agents and subcontractors, if any, and maintained in the individual's personnel file with a copy sent to AHCCCS upon request.

SPECIAL TERMS AND CONDITIONS

- 8 Covenant against Contingent Fees:** The Contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For violation of this warranty, the Procurement officer shall have the right to annul this contract without liability.
- 9 RFP and Contract Order of Precedence:**
The parties to this contract shall be bound by all terms and conditions contained herein. For interpreting such terms and conditions the following sources shall have precedence in descending order: The Constitution and laws of the United States and applicable Federal regulations; the terms of the CMS Section 1115 waiver for the State of Arizona; the Arizona State Plan; the Constitution and laws of Arizona, and applicable State Rules; the terms of this Contract which consists of the RFP, the Proposal of the Successful Offeror, and any Best and Final Offer including any attachments, executed amendments and modifications; and AHCCCS policies and procedures.
- 9.1 The RFP consists of the following, in order of Precedence:
- 9.1.1 HIPAA Business Associates Agreement or Addendum (if included)
 - 9.1.2 Special Terms and Conditions;
 - 9.1.3 Uniform Terms and Conditions;
 - 9.1.4 Statement or Scope of Work;
 - 9.1.5 Specifications;
 - 9.1.6 Attachments;
 - 9.1.7 Exhibits;
 - 9.1.8 Documents referenced or included in the Solicitation.
 - 9.1.9 AHCCCS policies and procedures incorporated by reference.
- 9.2 The awarded Contract between AHCCCS and the Contractor consist of the following in order of Precedence:
- 9.2.1 All Contract Amendments issued after award in descending order,
 - 9.2.2 The Request for Proposal (RFP) as described above; and
 - 9.2.3 The proposal submitted by the Contractor in response to the RFP including any Best and Final Offers.
- 9.3 In the event of a conflict in language between the Offeror's proposal (including any Best and Final Offers) and the RFP (including AHCCCS policies and procedures incorporated by reference), the provisions and requirements set forth and/or referenced in the RFP (including AHCCCS policies and procedures incorporated by reference) shall govern.
- 9.4 The contract shall be construed according to the laws of the State of Arizona. The State of Arizona is not obligated for the expenditures under the contract until funds have been encumbered.
- 10 Administrative Changes**
The Procurement Officer, or authorized designee, reserves the right to correct any obvious clerical, typographical or grammatical errors, as well as errors in party contact information (collectively, "Administrative Changes"), prior to or after the final execution of a Contract or Contract Amendment. Administrative Changes subject to permissible corrections include: misspellings, grammar errors, incorrect addresses, incorrect Contract Amendment numbers, pagination and citation errors, mistakes in the labeling of the rate as either extended or unit, and calendar date errors that are illogical due to typographical error. The Procurement Office shall subsequently notice the Contractor of corrections to administrative errors in a written confirmation letter with a copy of the corrected Administrative Change attached.

SPECIAL TERMS AND CONDITIONS

11 Fraud and Abuse:

- 11.1 It shall be the responsibility of the Contractor to report all cases of suspected fraud and abuse by subcontractors, members or employees. The Contractor shall provide written notification of all such incidents to the Procurement officer.
- 11.2 As stated in A.R.S. § 13-2310, incorporated herein by reference, any person who knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions is guilty of a class 2 felony.
- 11.3 Contractors are required to research potential overpayments identified by a fraud and abuse investigation or audit conducted by AHCCCS. After conducting a cost benefit analysis to determine if such action is warranted, the Contractor should attempt to recover any overpayments identified due to erroneous, false or fraudulent billings.

12 Independent Contractor and Employees of Contractor: The Contractor represents himself/herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of the State of Arizona and/or AHCCCS. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, etc. All employees of the Contractor employed or in performance of work under this Contract shall be employees of the Contractor at all times and not of AHCCCS. The Contractor shall comply with the Social Security Act, Workers' Compensation laws and unemployment laws of the State of Arizona as well as federal, state and local legislation relevant to the Contractor's business.

13 Licenses: Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor.

14 Ownership of Information and Data:

- 14.1 Any data or information system, including all software, documentation and manuals, developed by Contractor pursuant to this contract, shall be deemed to be owned by AHCCCS. The federal government reserves a royalty free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for federal government purposes, such data or information system, software, documentation and manuals. Proprietary software which is provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership or licensing provisions of this section.
- 14.2 Data, information and reports collected or prepared by Contractor in the course of performing its duties and obligations under this contract shall be deemed to be owned by AHCCCS. The ownership provision is in consideration of Contractor's use of public funds in collecting or preparing such data, information and reports. These items shall not be used by Contractor for any independent project of Contractor or publicized by Contractor without the prior written permission of the Procurement officer. Subject to applicable state and federal laws and regulations, AHCCCS shall have full and complete rights to reproduce, duplicate, disclose and otherwise use all such information. At the termination of the contract, Contractor shall make available all such data to the Procurement officer within thirty (30) days following termination of the contract or such longer period as approved by the Procurement officer. For purposes of this subsection, the term "data" shall not include member medical records.
- 14.3 Except as otherwise provided in this section, if any copyrightable or patentable material is developed by Contractor in the course of performance of this contract, the federal government, AHCCCS and the State of Arizona shall have a royalty free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for state or federal government purposes.

SPECIAL TERMS AND CONDITIONS

Contractor shall additionally be subject to the applicable provisions of 45 CFR Part 74 and 45 CFR Parts 6 and 8.

15 Records:

- 15.1 In addition to the requirements set forth in this contract under the Uniform Terms and Conditions, all books and records shall be maintained to the extent and in such detail as required by AHCCCS Rules and Policies. Records shall include, but not be limited to, financial statements, case files (both hard copy and stored data), and other records specified by AHCCCS.
- 15.2 The Contractor shall make available at its office at all reasonable times during the term of this contract and the period set forth in in this section, any of its records for inspection, audit or reproduction by any authorized representative of AHCCCS, State or Federal government.
- 15.3 The Contractor shall preserve and make available all records for a period of five (5) years from the date of final payment under this contract except as provided below:
- 15.3.1 If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five years from the date of any such termination.
- 15.3.2 Records that relate to grievances, disputes, litigation or the settlement of claims arising out of the performance of this contract, or costs and expenses of this contract to which exception has been taken by AHCCCS, shall be retained by the Contractor for a period of five years after the date of final disposition or resolution thereof.
- 15.3.3 Completed case files shall be scheduled for archive shipment to AHCCCS, as defined by AHCCCS Policy and Procedures.

- 16 **Responsibility for Payments Indemnification:** The Contractor shall be responsible for issuing payment for services performed by the Contractor's employees and will indemnify and save AHCCCS harmless for all claims whatsoever growing out of the lawful demands of employees, subcontractors, suppliers or any other third party incurred in the furtherance of the performance of the contract. The Contractor shall, at AHCCCS' request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.

17 Staff Background Checks

If not already required by the licensing authority, any staff or individual who comes into contact with members shall be subject to this requirement, unless otherwise indicated in writing by AHCCCS. For the purposes of this requirement, "Staff" is defined as any individual who is an employee, independent contractor, volunteers, consultant or subcontractor of the Contractor and who during their course of work on this Contract will have contact with residents/members:

- 17.1 The Contractor shall, at its own expense, complete a background check on all Staff.
- 17.2 The background check shall be completed via a recognized law enforcement agency or qualified third party within thirty (30) days of assignment of Staff, and annually thereafter or as agreed to in writing by AHCCCS.
- 17.3 At minimum, the background check shall include criminal record information, and employment history. Staff may not be permitted to perform work under this contract without clearance of their background check, unless otherwise agreed to in writing by AHCCCS.
- 17.4 The Contractor shall not allow any Staff to have access to the system or data after thirty (30) days of assignment without clearance of their background check, unless otherwise agreed to in writing by AHCCCS.

SPECIAL TERMS AND CONDITIONS

- 17.5 The Contractor shall submit written confirmation to the AHCCCS on an annual basis of all Staff who have been background checked and approved to work on the Contract.

SPECIAL TERMS AND CONDITIONS**Insurance Requirements****1. Insurance Requirements**

Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

2. Minimum Scope and Limits of Insurance

Contractor shall provide coverage with limits of liability not less than those stated below.

2.1. Commercial General Liability (CGL) – Occurrence Form

Policy shall include bodily injury, property damage, and broad form contractual liability coverage.

General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Damage to Rented Premises \$50,000 Each Occurrence	\$1,000,000

- a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2.2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract.

- Combined Single Limit (CSL) \$1,000,000
 - a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.
 - b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

SPECIAL TERMS AND CONDITIONS**Insurance Requirements****2.3. Workers' Compensation and Employers' Liability**

- Workers' Compensation Statutory
- Employers' Liability
 - Each Accident \$1,000,000
 - Disease – Each Employee \$1,000,000
 - Disease – Policy Limit \$1,000,000
- a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23- 901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

2.4 Professional Liability (Errors and Omissions Liability)

- Each Claim \$2,000.000
- Annual Aggregate \$2,000.000
- a. In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of two (2) years beginning at the time work under this Contract is completed.
- b. The policy shall cover professional misconduct or negligent acts for those positions defined in the Scope of Work of this contract.

Additional Insurance Requirements

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

3. Notice of Cancellation

Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor shall provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be mailed, emailed, hand delivered or sent by facsimile transmission to AHCCCS.

4. Acceptability of Insurers

Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall

SPECIAL TERMS AND CONDITIONS**Insurance Requirements**

have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

If the Contractor utilizes the Social Service Contractors Indemnity Pool ("SSCIP") or other prior approved insurance pool for insurance coverage, SSCIP or the other prior approved insurance pool is exempt from the A.M. Best's rating requirements listed in this section. If the Contractor chooses to use SSCIP or another approved insurance pool as its insurance provider, the Contractor would be considered in full compliance with insurance requirements relating to the A.M. Best rating requirements.

5. Verification of Coverage

Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

All such certificates of insurance and policy endorsements shall be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.

Each insurance policy required by this Contract shall be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to AHCCCS. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

6. Subcontractors

Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of the Contract, proof from the Contractor that its subcontractors have the required coverage.

7. Approval and Modifications

AHCCCS, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

8. Exceptions

In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

HIPPA Business Associated Addendum

Updated April 2020

This Addendum is made part of this Contract between the Arizona Health Care Cost Containment System ("AHCCCS") and the Contractor, referred to as "Business Associate" in this Addendum.

AHCCCS and Business Associate agree that the underlying Contract shall comply with the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as set forth in Title 45, Parts 160 and 164 of the Code of Federal Regulations (the "CFR"), as amended. In the event of conflicting terms or conditions, this Addendum shall supersede the underlying Contract.

1. DEFINITIONS

The following terms used in this Addendum shall have the same meaning as those terms in the HIPAA rules set forth in Title 45, Parts 160 and 164 of the CFR: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

Business Associate agrees to:

- 2.1. Not use or disclose protected health information ("PHI") other than as permitted or required by this Addendum or as required by law;
- 2.2. Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI, to prevent use or disclosure of protected health information other than as provided for by this Addendum;
- 2.3. Report to AHCCCS any use or disclosure of PHI not provided for by this Addendum of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR § 164.410, and any security incident of which it becomes aware in the following manner:
 - 2.3.1. Reporting. Business Associate shall report to AHCCCS any use or disclosure of PHI that is not authorized by the Contract, by law, or in writing by AHCCCS. Business Associate shall make an initial report to the AHCCCS Privacy Official not more than twenty-four (24) hours after Business Associate learns of such unauthorized use or disclosure. The initial report shall include all of the following information to the extent known to the Business Associate at the time of the initial report:
 - A. A description of the nature of the unauthorized use or disclosure, including the number of individuals affected by the unauthorized use or disclosure;
 - B. A description of the PHI used or disclosed;
 - C. The date(s) on which the unauthorized use or disclosure occurred;
 - D. The date(s) on which the unauthorized use or disclosure was discovered;

Business Associate Addendum

Updated April 2020

- E. Identify the person(s) who used or disclosed the PHI in an unauthorized manner;
- F. Identify the person(s) who received PHI disclosed in an unauthorized manner;
- G. A description of actions, efforts, or plans undertaken by the Business associate to mitigate the harm of the unauthorized disclosure;
- H. A description of corrective actions undertaken or planned to prevent future similar unauthorized use or disclosure;
- I. An assessment of whether a breach, as defined in 45 CFR 164.402, including, if necessary, an assessment of the probability of harm, and
- J. Such other information, as may be reasonably requested by the AHCCCS Privacy Official.

Business Associate shall provide AHCCCS with supplemental reports promptly as new information becomes available, as assessments and action plans are developed, and as action plans are implemented. In any event, Business Associate shall provide a comprehensive written report including all of the information listed above no later than twenty (20) days after discovery of the unauthorized use or disclosure.

- 2.3.2. Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of the Contract.
- 2.3.3. Sanctions. Business Associate shall have and apply appropriate sanctions against any employee, subcontractor or agent who uses or discloses AHCCCS PHI in violation of this Addendum or applicable law.
- 2.4. In accordance with 45 CFR §164.502(e)(1)(ii) and §164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such information;
- 2.5. Make available PHI in a designated record set to AHCCCS as necessary to satisfy AHCCCS' obligations under 45 CFR §164.524;
- 2.6. Make any amendment(s) to PHI in a designated record set as directed or agreed to by AHCCCS pursuant to 45 CFR §164.526, or take other measures as necessary to satisfy AHCCCS' obligations under 45 CFR §164.526;
- 2.7. Maintain and make available the information required to provide an Accounting of Disclosures to AHCCCS as necessary to satisfy AHCCCS' obligations under 45 CFR §164.528;
- 2.8. To the extent Business Associate is to carry out one or more of AHCCCS' obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to AHCCCS in the performance of such obligation(s); and
- 2.9. Make its internal practices, books and records available to AHCCCS and the Secretary for purposes of determining compliance with the HIPAA rules.

Updated April 2020

3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

- 3.1. Business Associate may only use or disclosure PHI as necessary to perform the services and obligations set forth in the underlying Contract;
- 3.2. Business Associate may use or disclose protected health information as required by law;
- 3.3. Business Associate agrees to make uses and disclosures and requests for protected health information consistent with Minimum Necessary, as required at 45 § CFR 164.502(b) and 164.514(d).
- 3.4. Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by AHCCCS, except for the specific uses and disclosures set forth below in (3.5 and 3.6);
- 3.5. Business Associate may use protected health information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate; and
- 3.6. Business Associate may provide data aggregation services relating to the health care operations of AHCCCS.

4. PROVISIONS FOR AHCCCS TO INFORM BUSINESS ASSOCIATE OF PRIVACY PRACTICES AND RESTRICTIONS

- 4.1. AHCCCS shall notify Business Associate of any limitation(s) in the AHCCCS Notice of Privacy Practices (found at www.azahcccs.gov) under 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI;
- 4.2. AHCCCS shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and
- 4.3. AHCCCS shall notify Business Associate of any restriction on the use or disclosure of PHI that AHCCCS has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

5. TERM AND TERMINATION

- 5.1. Term: This Addendum is effective upon the effective date of the underlying Contract and shall terminate on the date AHCCCS terminates the contract for cause as authorized in paragraph (b) of this Section, or for any other reason permitted under the contract, whichever is sooner.

- 5.2. Termination for Cause: Business Associate authorizes termination of the Contract by AHCCCS if AHCCCS determines that Business Associate has breached a material term of this Addendum and Business Associate has not cured the breach or ended the violation within the time specified by AHCCCS.
- 5.3. Obligations of Business Associate Upon Termination: Upon termination, cancellation, expiration or other conclusion of the Contract, Business Associate, with respect to PHI received from AHCCCS, or created, maintained, or received by Business Associate on behalf of AHCCCS, shall:
- 5.3.1. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - 5.3.2. Destroy or return to AHCCCS all remaining PHI that the Business Associate still maintains in any form;
 - 5.3.3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
 - 5.3.4. Not use or disclose the PHI retained by Business Associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out in this Addendum that applied prior to termination; and
 - 5.3.5. Destroy or return to AHCCCS the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal and contractual responsibilities.
- 5.4. Survival: The obligations of Business Associate under this Section shall survive the termination of the Contract.

6. INDEMNIFICATION AND MISCELLANEOUS

- 6.1. Indemnification: Business Associate shall indemnify, hold harmless and defend AHCCCS from and against any and all claims, losses, liabilities, costs, civil and criminal penalties, and other expenses resulting from, or relating to, the acts or omissions of Business Associate, its employees, agents, and sub-contractors in connection with the representations, duties and obligations of Business Associate under this Addendum. The parties' respective rights and obligations under this Section shall survive termination of the Contract.
- 6.2. Regulatory References: A reference in this Addendum to a section in the HIPAA rules means the section as in effect or as amended.
- 6.3. Amendment: The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for compliance with the requirements of the HIPAA rules or any other applicable law.
- 6.4. Interpretation: Any ambiguity in this Addendum shall be interpreted to permit compliance with the HIPAA rules.

Attachment A: Contractor Chart of Deliverables

<u>Deliverable</u>	<u>Frequency / Due Date</u>
Caseload Ratio Report	Quarterly
Internal case File Audit Results (Supervisory Audit Report)	Quarterly
Program Organizational Chart	Upon Contract execution and upon request
ALTCS Personnel Changes	Within 30 days of change
Contractor Expenditure Report (CER)	15th day of each month
Tribal Case Management Expense Summary	Quarterly
Quarterly Financial Report	Quarterly
Quarterly Financial Certification Statement	Quarterly
Quarterly Financial Audit	9 months after end of Tribal fiscal year
Seclusion Restraint Reports Concerning Persons with a SMI	Monthly
Comprehensive Report of Persons Identified in Need of Special Assistance	Quarterly
Notification of a Person in Need of Special Assistance	Ad Hoc
Notification of a Person No Longer in Need of Special Assistance	Ad Hoc
Grievance or Appeals by Eligible or Enrolled Persons and/or Subcontracted Providers (Non-TXIX)	Ad Hoc

ATTACHMENT B: Offeror's Certification regarding Boycott of Israel
YH23-0002-08 ALTCS Tribal Case Management

Pursuant to A.R.S. §35-393.01, a public entity may not enter into a contract with a value of \$100,000 or more with a company to acquire or dispose of services, supplies, information technology or construction unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of goods or services from Israel.

Please note that the following are exempt: Contracts estimated to be below \$100,000, sole proprietorships, contractors with less than ten employees and non-profit organizations and shall select the "Exempt Solicitation, Contract or Contractor" option below.

As defined by A.R.S. §35-393:

1. "Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with Israel or with persons or entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - (a) In compliance with or adherence to calls for a boycott of Israel other than those boycotts to which 50 United States Code section 4607(c) applies.
 - (b) In a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
2. "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, and includes a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate.
3. "Direct holdings" means all publicly traded securities of a company that are held directly by the state treasurer or a retirement system in an actively managed account or fund in which the retirement system owns all shares or interests.
4. "Indirect holdings" means all securities of a company that are held in an account or fund, including a mutual fund, that is managed by one or more persons who are not employed by the state treasurer or a retirement system, if the state treasurer or retirement system owns shares or interests either:
 - (a) together with other investors that are not subject to this section.
 - (b) that are held in an index fund.
5. "Public entity" means this State, a political subdivision of this STATE or an agency, board, commission or department of this state or a political subdivision of this state.
6. "Public fund" means the state treasurer or a retirement system.
7. "Restricted companies" means companies that boycott Israel.
8. "Retirement system" means a retirement plan or system that is established by or pursuant to title 38.

The certification below does not include boycotts prohibited by 50 United States Code Section 4842 or a regulation issued pursuant to that section. See A.R.S. §35-393.03.

All Offerors must select one of the following:

The Company submitting this Offer **DOES NOT** participate in, and agrees not to participate in during the term of the contract a boycott of Israel in accordance with A.R.S. §35-393 et seq. I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317.

The Company submitting this Offer **DOES** participate in a boycott of Israel as defined by A.R.S. §35-393 et seq.

Exempt Solicitation, contract or Contractor. Indicate which of the following statements applies:

- Solicitation or Contract has an estimated value of less than \$100,000;
- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; and/or
- Contractor is a non-profit organization.

Native Health

Company Name

4014 N. Central Ave Bld C

Address

Phoenix

AZ.

85012

City

State

Zip

Signature of Person Authorized to Sign

Walter Murillo

Printed Name

CEO

Title

ATTACHMENT C: Offeror's Certification regarding Forced Labor of Ethnic Uyghurs Ban YH23-0002-08 ALTCS Tribal Case Management

Forced Labor of Ethnic Uyghurs Ban

Please note that if any of the following apply to the Contractor, then the Offeror shall select the "Exempt Contractor" option below:

- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; OR
- Contractor is a non-profit organization.

Pursuant to A.R.S. § 35-394, written certification is required to show that the company entering into a contract with a public entity does not use the forced labor, or any goods or services produced by the forced labor, of ethnic Uyghurs in the People's Republic of China.

Under A.R.S. § 35-394:

1. "Company" means an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate, that engages in for-profit activity and that has ten or more full-time employees.
2. "Public entity" means this State, a political subdivision of this State or an agency, board, commission or department of this State or a political subdivision of this State.

In compliance with A.R.S. §§ 35-394 et seq., all offerors must select one of the following:

- The Company submitting this Offer does not use, and agrees not to use during the term of the contract, any of the following:
- Forced labor of ethnic Uyghurs in the People's Republic of China;
 - Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or
 - Any Contractors, Subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.
- The Company submitting this Offer does participate in use of Forced Uyghurs Labor as described in A.R.S. § 35-394.
- Exempt Contractor**
Indicate which of the following statements applies to the Contractor (may be more than one):
- Contractor is a sole proprietorship;
 - Contractor has fewer than ten (10) employees; and/or
 - Contractor is a non-profit organization.

Native Health

Company Name

4041 N. Central Bld C

Address

Phoenix. AZ, 85012

City, State, ZIP

Signature of person authorized to sign

Walter Murillo, CEO

Printed name and title

wmurillo@nachci.com (602) 279-5262

Contact email address

Contact phone number

END OF CONTRACT

